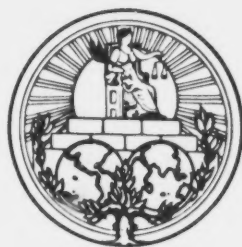


INTERNATIONAL COURT OF JUSTICE

Yearbook 1991-1992

No. 46



I.C.J. - THE HAGUE - 1992

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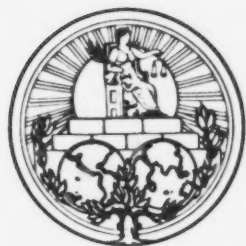
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INTERNATIONAL COURT OF JUSTICE

Yearbook 1991-1992

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PRINTED IN THE NETHERLANDS

In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The *Yearbook* appears in the second half of each year. The present volume – forty-sixth of the series – covers the period from 1 August 1991 to 31 July 1992.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Eduardo VALENCIA-OSPINA,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. BASIC TEXTS

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the resolution concerning the internal judicial practice of the Court.

1. *Charter of the United Nations*

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. *Statute of the International Court of Justice*

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

"1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice

on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 54-60, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 59-60, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The current publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 92-161).

II. CHRONOLOGICAL SURVEY

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court (*Corfu Channel (United Kingdom v. Albania)*) was submitted on 22 May 1947.

Between then and 31 July 1992 the Court has had to deal with a total of 88 cases, i.e., 68 contentious cases and 20 advisory cases, as listed below¹. In those cases it gave 54 judgments and 21 advisory opinions. Of the 263 orders made therein, 205 related solely to the fixing or extending of time-limits, while 234 orders related to contentious cases and 29 to advisory cases.

Title	Dates
(a) Contentious ²	
<i>Corfu Channel (United Kingdom v. Albania)</i>	1947-1949
<i>Fisheries (United Kingdom v. Norway)</i>	1949-1951
<i>Protection of French Nationals and Protected Persons in Egypt (France v. Egypt)</i>	1949-1950
<i>Asylum (Colombia/Peru)</i>	1949-1950
<i>Rights of Nationals of the United States of America in Morocco (France v. United States of America)</i>	1950-1952

¹ Factual information (dates, etc.) regarding the course of the proceedings in each case is given in *Background Notes II and II bis: Synopsis of cases referred to the International Court of Justice* (see p. 135, below).

² In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

<i>Title</i>	<i>Dates</i>
<i>Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. Peru)</i>	1950
<i>Haya de la Torre (Colombia v. Peru)</i>	1950-1951
<i>Ambatielos (Greece v. United Kingdom)</i>	1951-1953
<i>Anglo-Iranian Oil Co. (United Kingdom v. Iran)</i>	1951-1952
<i>Minquiers and Ecrehos (France/United Kingdom)</i>	1951-1953
<i>Nottebohm (Liechtenstein v. Guatemala)</i>	1951-1955
<i>Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)</i>	1953-1954
<i>Electricité de Beyrouth Company (France v. Lebanon)</i>	1953-1954
<i>Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. Hungary)</i>	1954
<i>Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. USSR)</i>	1954
<i>Aerial Incident of 10 March 1953 (United States of America v. Czechoslovakia)</i>	1955-1956
<i>Antarctica (United Kingdom v. Argentina)</i>	1955-1956
<i>Antarctica (United Kingdom v. Chile)</i>	1955-1956
<i>Aerial Incident of 7 October 1952 (United States of America v. USSR)</i>	1955-1956
<i>Certain Norwegian Loans (France v. Norway)</i>	1955-1957
<i>Right of Passage over Indian Territory (Portugal v. India)</i>	1955-1960
<i>Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden)</i>	1957-1958
<i>Interhandel (Switzerland v. United States of America)</i>	1957-1959
<i>Aerial Incident of 27 July 1955 (Israel v. Bulgaria)</i>	1957-1959
<i>Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)</i>	1957-1960
<i>Aerial Incident of 27 July 1955 (United Kingdom v. Bulgaria)</i>	1957-1959
<i>Sovereignty over Certain Frontier Land (Belgium/Netherlands)</i>	1957-1959
<i>Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)</i>	1958-1960
<i>Aerial Incident of 4 September 1954 (United States of America v. USSR)</i>	1958
<i>Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)</i>	1958-1961

<i>Title</i>	<i>Dates</i>
<i>Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)</i>	1959-1960
<i>Aerial Incident of 7 November 1954 (United States of America v. USSR)</i>	1959
<i>Temple of Preah Vihear (Cambodia v. Thailand)</i>	1959-1962
<i>South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)</i>	1960-1966
<i>Northern Cameroons (Cameroon v. United Kingdom)</i>	1961-1963
<i>Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)</i>	1962-1970
<i>North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)</i>	1967-1969
<i>Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)</i>	1971-1972
<i>Fisheries Jurisdiction (United Kingdom v. Iceland)</i>	1972-1974
<i>Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)</i>	1972-1974
<i>Nuclear Tests (Australia v. France)</i>	1973-1974
<i>Nuclear Tests (New Zealand v. France)</i>	1973-1974
<i>Trial of Pakistani Prisoners of War (Pakistan v. India)</i>	1973
<i>Aegean Sea Continental Shelf (Greece v. Turkey)</i>	1976-1978
<i>Continental Shelf (Tunisia/Libyan Arab Jamahiriya)</i>	1978-1982
<i>United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)</i>	1979-1981
<i>Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]</i>	1981-1984
<i>Continental Shelf (Libyan Arab Jamahiriya/Malta)</i>	1982-1985
<i>Frontier Dispute (Burkina Faso/Republic of Mali) [case referred to a Chamber]</i>	1983-1986
<i>Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)</i>	1984-1991
<i>Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya)</i>	1984-1985
<i>Border and Transborder Armed Actions (Nicaragua v. Costa Rica)</i>	1986-1987
<i>Border and Transborder Armed Actions (Nicaragua v. Honduras)</i>	1986-1992

<i>Title</i>	<i>Dates</i>
<i>Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber]</i> ¹	1986-
<i>Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy) [case referred to a Chamber]</i>	1987-1989
<i>Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)</i>	1988-
<i>Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)</i>	1989-
<i>Certain Phosphate Lands in Nauru (Nauru v. Australia)</i>	1989-
<i>Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)</i>	1989-1991
<i>Territorial Dispute (Libyan Arab Jamahiriya/Chad)</i>	1990-
<i>East Timor (Portugal v. Australia)</i>	1991-
<i>Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)</i>	1991-
<i>Passage through the Great Belt (Finland v. Denmark)</i>	1991-
<i>Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)</i>	1991-
<i>Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)</i>	1992-
<i>Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)</i>	1992-
<i>(b) Advisory</i>	
<i>Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter)</i>	1947-1948
<i>Reparation for Injuries Suffered in the Service of the United Nations</i>	1948-1949
<i>Interpretation of Peace Treaties with Bulgaria, Hungary and Romania</i>	1949-1950
<i>Competence of the General Assembly for the Admission of a State to the United Nations</i>	1949-1950
<i>International Status of South West Africa</i>	1949-1950
<i>Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide</i>	1950-1951

¹ The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

<i>Title</i>	<i>Dates</i>
<i>Effect of Awards of Compensation Made by the United Nations Administrative Tribunal</i>	1953-1954
<i>Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa</i>	1954-1955
<i>Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco</i>	1955-1956
<i>Admissibility of Hearings of Petitioners by the Committee on South West Africa</i>	1955-1956
<i>Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization</i>	1959-1960
<i>Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)</i>	1961-1962
<i>Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)</i>	1970-1971
<i>Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal</i>	1972-1973
<i>Western Sahara</i>	1974-1975
<i>Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt</i>	1980
<i>Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal</i>	1981-1982
<i>Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal</i>	1984-1987
<i>Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947</i>	1988
<i>Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations</i>	1989

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court¹

The Court consists of 15 Members (Statute, Art. 3, para. 1).
On 31 July 1992 the composition of the Court was as follows:

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
<i>President</i> Sir Robert Jennings	United Kingdom	5 February 2000 ²
<i>Vice-President</i> S. Oda	Japan	5 February 1994 ²
<i>Judges</i> M. Lachs	Poland	5 February 1994
R. Ago	Italy	5 February 1997
S. M. Schwebel	United States	5 February 1997
M. Bedjaoui	Algeria	5 February 1997
Ni Zhengyu	China	5 February 1994
J. Evensen	Norway	5 February 1994
N. K. Tarassov	Russian Federation	5 February 1997
G. Guillaume	France	5 February 2000
M. Shahabuddeen	Guyana	5 February 1997
A. Aguilar Mawdsley	Venezuela	5 February 2000
C. G. Weeramantry	Sri Lanka	5 February 2000
R. Ranjeva	Madagascar	5 February 2000
B. A. Ajibola ³	Nigeria	5 February 1994

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's

¹ For the composition of chambers, see pp. 16-17, below.

² The terms of office of Judges Sir Robert Jennings and Oda as President and Vice-President respectively expire in 1994.

³ Judge Ajibola was elected to fill the vacancy caused by the death, on 14 August 1991, of Judge Elias (see p. 9, below).

term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, p. 59, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. *Changes in the Composition of the Court in 1991-1992*

On 14 August 1991, Judge T. O. Elias, who had been a Member of the Court since 1976, its Vice-President from 1979 to 1981, its Acting President from 1981 to 1982 and its President from 1982 to 1985, died.

On 5 December 1991 the General Assembly and the Security Council of the United Nations elected Prince Bola A. Ajibola to fill the resulting vacancy. His term of office thus extends to 5 February 1994.

The following had also been candidates in the elections: Messrs. S. K. B. Asante, F. X. Njenga and F. M. Ssekandi.

3. *Former Presidents and Vice-Presidents and Former Members of the Court*

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;

1949-1952, J. Basdevant and J. G. Guerrero¹;

1952-1955, Sir Arnold McNair and J. G. Guerrero¹;

¹ While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel* (United Kingdom v. Albania); *Protection of French Nationals and Protected Persons in Egypt* (France v. Egypt); *Rights of Nationals of the United States of America in Morocco* (France v. United States of America); *Ambatielos* (Greece v. United Kingdom); *Anglo-Iranian Oil Co.* (United Kingdom v. Iran); *Miquiers and Ecrchos* (France v. United Kingdom); *Monetary Gold Removed from Rome in 1943* (Italy v. France, United Kingdom and United States of America).

1955-1958, G. H. Hackworth and A. H. Badawi¹;
 1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;
 1961-1964, B. Winiarski and R. J. Alfaro;
 1964-1967, Sir Percy Spender and V. K. Wellington Koo;
 1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;
 1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun²;
 1973-1976, M. Lachs and F. Ammoun²;
 1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
 1979-1982, Sir Humphrey Waldock³ and T. O. Elias⁴;
 1982-1985, T. O. Elias⁵ and J. Sette-Camara;
 1985-1988, Nagendra Singh and G. Ladreit de Lacharrière⁶;
 1988-1991, J. M. Ruda and K. Mbaye.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	Period of Office
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965

¹ While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel* (*Switzerland v. United States of America*), *Interim Protection*, and *Aerial Incident of 27 July 1955* (*United States of America v. Bulgaria*).

² While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council, Nuclear Tests (Australia v. France)*, *Interim Protection*, and *Nuclear Tests (New Zealand v. France)*, *Interim Protection*.

³ Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

⁴ Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

⁵ Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

⁶ Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
* I. Fabela	Mexico	1946-1952
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
* G. H. Hackworth	United States	1946-1961
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
* P. C. Jessup	United States	1961-1970
E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
H. Mosler	Federal Republic of Germany	1976-1985
* Nagendra Singh	India	1973-1988

C. D. Onyema	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
J. M. Ruda	Argentina	1973-1991
J. Sette-Camara ¹	Brazil	1979-1988
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. JUDGES AD HOC

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. Albania). Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

¹ In accordance with Article 13, paragraph 3, of the Statute and Article 17, paragraph 4, of the Rules of Court, Judge Sette-Camara continues to sit as President of the Chamber in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador v. Honduras: Nicaragua intervening)*.

Asylum (Colombia/Peru), Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru) and Haya de la Torre (Colombia v. Peru). Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. United Kingdom). Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. Iran). Mr. K. Sandjahi was chosen by Iran.

Nottebohm (Liechtenstein v. Guatemala). Mr. C. Garcia Bauer¹ was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America). Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. India). Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden). Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. United States of America). Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. Bulgaria). Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

*Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)*². Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua). Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

*Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*². Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. South Africa; Liberia v. South Africa). Sir Louis Mbanefo (Nigeria)³ was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. United Kingdom). Mr. P. Beb a Don was chosen by Cameroon.

¹ The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos.

² Case removed from the list before the Court had occasion to sit.

³ The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain). Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan). Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. France). Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. France). Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. India). Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan¹.

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. Turkey). Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America). Mr. C.-A. Colliard (France) was chosen by Nicaragua.

¹ This case was removed from the list before the Court had occasion to hear argument on the question of its jurisdiction.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya). Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) has been chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally¹, Mr. S. Torres Bernárdez (Spain) has been chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway). Mr. P. H. Fischer has been chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America). Mr. M. Aghahosseini has been chosen by the Islamic Republic of Iran.

Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal). Mr. H. Thierry (France) has been chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It has therefore chosen Mr. K. Mbaye to sit as judge *ad hoc*.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) has been chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. Australia). Mr. A. de Arruda Ferrer-Correia has been chosen by Portugal and Sir Ninian Stephen by Australia.

Passage through the Great Belt (Finland v. Denmark). Mr. B. Broms has been chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain). Mr. J. M. Ruda (Argentina) has been chosen by Qatar and Mr. N. Valticos (Greece) by Bahrain.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom). Mr. A. S. El-Kosheri (Egypt) has been chosen by the Libyan Arab Jamahiriya.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America). Mr. A. S. El-Kosheri (Egypt) has been chosen by the Libyan Arab Jamahiriya.

¹ See I.C.J. Yearbook 1988-1989, p. 14.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber *ex officio*, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is composed as follows: President Sir Robert Jennings; Vice-President Oda; Judges Schwebel, Ni and Evensen, members; Judges Tarassov and Aguilar Mawdsley, substitute members.

2. Chambers Formed under Article 26, Paragraph 2, of the Statute

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago (*President*), Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui (*President*), Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy): constituted on 2 March 1987 with the following composition – Judges Nagendra Singh (*President*), Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (*ex officio*) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990 – see p. 197, below] intervening): constituted on 8 May 1987 with the following composition – Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to

sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara (*President*), Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez (see pp. 195-196, below). On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

3. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

The Court has not had occasion to apply the provisions of Article 26, paragraph 1, of the Statute.

In the recent past, the Court has considered the matter of the possible formation of a chamber to deal with environmental disputes. It took the view that it was not necessary to set up a standing special chamber, but emphasized that it was able to respond rapidly to requests for the constitution, pursuant to Article 26, paragraph 2, of the Statute, of a special chamber which could deal with any case, and therefore any environmental case.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Eduardo Valencia-Ospina (see Chap. V, pp. 130-131, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (1) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that "... if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations *laissez-passer* issued to the judges by the Court. Such *laissez-passer* have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 1991 to 31 July 1992 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 1992

President Sir Robert Yewdall JENNINGS

(Member of the Court since 6 February 1982; re-elected as from 6 February 1991; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* since 1986, and of the Chamber formed to deal with the case concerning *Eletronica Sicula S.p.A. (ELSI)*, 1987-1989; President of the Court since February 1991)

Born on 19 October 1913.

Studied at Cambridge University, obtaining the degrees of M.A. and LL.B., and subsequently at Harvard University (Choate Fellow, 1936-1937). Honorary Doctor of Law, Universities of Hull (1987), Saarland (1988), and Rome (1990).

Assistant Lecturer in Law, London School of Economics (1938-1939). Lecturer (1946-1955) and subsequently Whewell Professor of International Law in the University of Cambridge (1955-1982). Reader in International Law to the Inns of Court Council of Legal Education (1959-1970).

Fellow (since 1939), Senior Tutor (1949-1955) and sometime President of Jesus College, Cambridge.

Called to the Bar of Lincoln's Inn (1943); Honorary Bencher of Lincoln's Inn (since 1970); Queen's Counsel (since 1969).

Counsel in the *Rio Encuentro*, *Beagle Channel*, Franco-British *Continental Shelf Delimitation* and Dubai-Sharjah *Frontier Delimitation* arbitrations; appeared as Counsel before the Court in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case.

Sometime legal consultant to a number of Governments (Argentina, Bangladesh, Brunei, Canada, Sudan, Venezuela, Sharjah, etc.).

Judge *ad hoc*, European Court of Human Rights, in *X v. United Kingdom* (1982).

Member of the Permanent Court of Arbitration (since 1982).

Public International Law Editor of the *International and Comparative Law Quarterly* (1957-1959). Editor of the *British Year Book of International Law* (1959), first with Sir Humphrey Waldock, and then as senior editor from 1974 to 1982.

Associate (1957), Member (1967), Vice-President (1979), President (1981) and Honorary Member (1985) of the Institute of International Law. Honorary Life Member of the American Society of International Law.

Gave the general course on principles of international law at the Hague Academy of International Law (1967).

Author of various books, articles and monographs.

Vice-President Shigeru ODA

(Member of the Court since 6 February 1976; re-elected as from 6 February 1985; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* since 1986, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court since February 1991; Acting President in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*)

Born on 22 October 1924.

Law degree, University of Tokyo (1947). Doctor of Law (JSD), Yale University (1953). Doctor of Law, University of Tôhoku (1962). Doctor *honoris causa* of the Bhopal University, India (1980), and of the New York Law School (1981).

Research Fellow in international law, University of Tokyo (1947-1949). Lecturer (1950-1953), Associate Professor (1953-1959) and Professor (1959-1976) at the University of Tôhoku. Professor Emeritus (1985). Technical Adviser to the Atomic Energy Commission (1961-1964) and to the Council for Marine Science and Technology in the Prime Minister's Office (1968-1971). Special Assistant to the Minister for Foreign Affairs (1973-1976). Member of the Science Council of the Ministry of Education (1969-1976), of the Council for Ocean Development in the Prime Minister's Office (1971-1976), and of the Advisory Committee for Co-operation with the United Nations University (1971-1976).

Delegate to the United Nations Conferences on the Law of the Sea (1958, 1960 and 1973-1975); member of the United Nations Group of Experts on Marine Science and Technology (1967-1968); Alternate Representative of Japan on the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor (1968-1973); Legal Consultant to the ESCAP Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (1969, 1972 and 1975). Member of the panel of the International Atomic Energy Agency on the Legal Implications of the Disposal of Radio-active Waste into the Sea

(1961-1963) and of the Agency's group of experts for the Study of the Character and Purpose of Appropriate Observation of Peaceful Nuclear Explosions (1970). Representative of Japan at the sixth General Conference of the Inter-Governmental Oceanographic Commission (1969); Chairman of the Working Group on Legal Questions related to Scientific Investigations of the Ocean (1968-1975). Alternate Member of the Asian-African Legal Consultative Committee (1971-1975).

Counsel for the Federal Republic of Germany before the International Court of Justice in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases (1968).

Member of the Executive Councils of the Japanese Society of International Law and of the Japanese branch of the International Law Association. Associate (1969) and Member (1979) of the Institute of International Law. Honorary life Member of the American Society of International Law (1975). Honorary Member of the Indian Society of International Law. Member of the Curatorium of the Hague Academy of International Law.

Editor-in-chief of the *Japanese Annual of International Law* (1973-1977). Lecturer on the "International Law of the Resources of the Sea" at the Hague Academy of International Law (*Recueil des cours*, 1969).

Publications: in English - *International Control of Sea Resources*, reprinted edition with a new introduction, 1989; *The International Law of the Ocean Development* (4 vols.), 1972-1979; *The Law of the Sea in Our Time* (2 vols.), 1977; *International Law of the Resources of the Sea*, reprinted edition with supplement (1979); *The Practice of Japan in International Law 1961-1970* (edited with H. Owada), 1982; in Japanese - *International Law of the Sea* (1956, revised ed. 1969); *International Law of Marine Resources* (3 vols.), 1971-1975; *Judicial Decisions of the Japanese Courts involving International Law* (edited with T. Sogawa), 1978, revised and updated edition, 1991; *The Law of the Sea*, Vol. 1, 1979; *The Law of the Sea: 25 Years of Recollections*, 1981; *Treaties and Conventions* (edited with Y. Ishimoto), 1983; *Commentary on the United Nations Convention on the Law of the Sea*, Vol. 1, 1985; *The International Court of Justice*, 1987; *A Collection of Essays on the Law of the Sea*, 1989; and various articles on international law in English and in Japanese.

Judge Manfred LACHS

(Member of the Court since 6 February 1967; re-elected as from 6 February 1976 and again as from 6 February 1985; member of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987; President of the Court 1973-1976)

Born on 21 April 1914.

LL.M., *Dr. juris* (1937) and Laureate of Jurisprudence (1987) (Cracow); Doctor of the University of Nancy; D.Sc. (Law), University of Moscow;

Doctor *honoris causa* of the Universities of Algiers, Brussels, Bucharest, Budapest, Delhi, London, New York, Nice, Sofia, Southampton, Helsinki, Vienna, and of Bridgeport University, Connecticut, Dalhousie University, Halifax, N.S., Howard University, Washington, D.C., Simon Fraser University, Vancouver, B.C., State University of New York and the University of Silesia.

Member of the Polish Academy of Sciences; Director, Institute of Legal Sciences, Polish Academy of Sciences (1961-1966); Member and First Vice-President (1987-1989) of the Institute of International Law; Corresponding Member of the Institut de France (1980); Honorary Member, International Academy of Astronautics (1964); Corresponding Member of the Academy of Moral Sciences, Bologna (1966); Honorary Member of the Academia Mexicana de Derecho Internacional; President of the International Institute of Space Law; Vice-President of the Curatorium of the Hague Academy of International Law; Foreign Member of the Dutch Society of Sciences (1982); Honorary Fellow, Institute of Social Studies, The Hague (1982). Member (1964-1980), Vice-Chairman (1978-1980) and Honorary Senior Fellow (1983), United Nations Institute for Training and Research; Distinguished Fellow of the Delian Institute of International Relations (Athens); Member of the International Advisory Panel on the Restatement of the Law, the Foreign Relations Law of the United States.

Member of the Arbitral Tribunal for the Interpretation of the Constitution of Unesco (1949); of the Permanent Court of Arbitration (since 1956); President of the Arbitration Tribunal on the Delimitation of the Maritime Frontier between Guinea and Guinea-Bissau (1983-1985); Chairman of the United Nations Legal Sub-Committee on the Peaceful Uses of Outer Space (1962-1966); Member of the International Law Commission (1962-1966), Rapporteur 1962, Vice-Chairman 1966; Chairman, Sub-Committee of the International Law Commission on Succession of States and Governments (1963); Special Rapporteur on Succession of States and Governments, International Law Commission; Member of the International Civil Service Advisory Board of the United Nations (1958-1967); of the Special Committee on Procedures, United Nations Conference on Trade and Development (1964); Member, Independent Commission on International Humanitarian Issues, Geneva.

Chairman (1949, 1951, 1955) and Vice-Chairman (1952) of the Sixth Committee of the United Nations General Assembly. General Rapporteur of a colloquium of the International Association of Juridical Sciences, Rome (1958). Honorary Member of the American Society of International Law and of the Indian Society of International Law; Member of the Council, International Institute for Peace and Conflict Research, Stockholm (since 1965); Member of the Olympic Arbitral Tribunal; Member of the Editorial Board of the *Polish Yearbook of International Law* and of the *Leiden Journal of International Law*; Chairman of the Supervisory Board of the Telders International Law Moot Court, Leiden University.

Award of the Polish Minister of Higher Education for educational achievements (1958); Gold Medal of the Union of Polish Students (1960); Award of the International Astronautical Federation and International Institute of Space Law (1962), and Gold Medal (1966), for "outstanding contributions to the development of the rule of law for outer space"; World Jurist Award of the World Peace through Law Center (1975); Netherlands Wateler Peace Prize (1976); Copernicus Medal of the Polish Academy of Sciences; *Encyclopaedia Britannica* Award Laureate (1987); Grotius Prize (1987); First Prize for Scientific Achievements of the Polish Academy of Sciences (1988). Medal of Merit, Leiden University (1992). Vice-Chairman, United Nations Environment Programme Sasakawa Environment Prize.

Professor in the Academy of Political Sciences, Warsaw (1949-1952); Professor of International Law in the University of Warsaw (since 1952); Member of the Codification Commission of Poland (1957-1964). Lectures at 25 universities in countries of Europe, Asia, Africa and North and South America. Röling Professor at the University of Groningen, Netherlands (1990); Member of the Law Faculty, Salzburg Seminar (1992).

Director of the Legal and Treaties Department of the Polish Ministry of Foreign Affairs (1947-1960); Legal Adviser to the Minister for Foreign Affairs (1960-1966); Minister Plenipotentiary (1959-1960); Ambassador (1960-1966); member, Polish delegation to the United Nations War Crimes Commission (1944-1946); Legal Adviser of the Polish delegation at the Paris Peace Conference (1946); Representative of Poland in the Disarmament Committee of the United Nations (1962-1964).

Principal publications: *War Crimes, An Attempt to Define the Issues*, London, 1945; *The Geneva Agreements on Indochina*, (in Polish) Warsaw, 1955, (in Russian) Moscow, 1956; "Le développement et les fonctions des traités multilatéraux" in the *Collected Courses* of the Academy of International Law, The Hague, 1957; *Multilateral Treaties* (in Polish), Warsaw, 1958, published also in Russian (Moscow, 1960), in Hungarian (Budapest, 1962) and in Spanish (by the Universidad Nacional Autónoma de México, 1962); *The Polish-German Frontier* (in English, French, German and Spanish), Warsaw, 1964, 2nd ed. 1965; "The International Law of Outer Space", in the *Collected Courses* of the Academy of International Law, The Hague, 1964; *The Law of Outer Space*, Leiden, 1972; in Spanish: *El Derecho del Espacio Ultraterrestre*, Mexico, Madrid, Buenos Aires, 1977; "The Development and General Trends of International Law in Our Time", General Course in Public International Law, *Collected Courses* of the Academy of International Law, The Hague, 1980; *The Teacher in International Law (Teachings and Teaching)* (awarded the certificate of the American Society of International Law, 1983), The Hague, 1982, 2nd ed. 1986; *Le monde de la pensée en droit international - Théories et pratique*, Paris, 1988; and 145 articles in 11 languages.

Judge Roberto AGO

(Judge *ad hoc* in the case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)*; Member of the Court since 6 February 1979; re-elected as from 6 February 1988. President of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984)

Born at Vigevano (Pavia) in 1907.

Doctor of Law and Doctor in Political Sciences (University of Naples). Doctor *honoris causa* of the Universities of Nancy, Nice, Paris II, Geneva and Toulouse.

Professor of International Law at the Universities of Catania (1934-1935) and of Genoa (1935-1938), at the State University of Milan (1938-1956) and finally at the University of Rome (1956-1982); Professor emeritus at the University of Rome (since 1983). Full Member of the Accademia Nazionale dei Lincei.

Member and subsequently Chairman of the United Nations International Law Commission. Head of the Italian delegation to International Labour Conferences (1946-1978); Representative of the Italian Government on the ILO Governing Body; Chairman of that Body (1954-1955 and 1967-1968), of its Government Group, and of its Committee on Freedom of Association. Member of the ILO Committee of Experts on Application of Conventions and Recommendations.

Delegate of Italian Government to numerous international conferences. Head of Italian delegation to United Nations Conferences on the Law of the Sea (1958, 1960), Diplomatic Relations (1961) and the Law of Treaties (1968, 1969); President of Conference on the Law of Treaties. Member of the Italian State delegation for the revision of the Lateran concordat and the negotiation of understandings with other confessions.

Counsel for the Italian and various other governments in cases before the Permanent Court of International Justice, the International Court of Justice and other international tribunals. Member of the Permanent Court of Arbitration. Member or President of various commissions of arbitration or conciliation. President of various arbitration tribunals, in particular the Franco-German tribunal on the Saar and that between France and the United States on the *Interpretation of the Air Transport Agreement* (1963).

Chairman of the Curatorium of the Hague Academy of International Law. Frequent lectures at that Academy, at the Graduate Institute of International Studies, Geneva, and at foreign universities and institutes.

Member (since 1956) and President (since 1991) of the Institute of International Law. Member of various learned bodies. President of the Italian Society for International Organization. Honorary President of the World Federation of United Nations Associations.

Director and co-director of various Italian law reviews.

Author of numerous works and articles, including the following: *Teoria del diritto internazionale privato, Parte generale*, Padua, 1934; "La respon-

sabilità indiretta nel diritto internazionale", *Archivio di diritto pubblico*, 1936; "Règles générales des conflits de lois", *Recueil des cours*, Hague Academy of International Law, 1936; "La regola del previo esaurimento dei ricorsi interni in tema di responsabilità internazionale", *Archivio di diritto pubblico*, 1938; "Le délit international", *Recueil des cours*, Hague Academy of International Law, 1939; *Lezioni di diritto internazionale*, Milan, 1943; *Scienza giuridica e diritto internazionale*, Milan, 1950; "Considerazioni su alcuni sviluppi dell'organizzazione internazionale", *La Comunità internazionale*, 1952; "Diritto positivo e diritto internazionale", *Comunicazioni e Studi dell'Istituto di diritto internazionale e straniero dell'Università di Milano*, 1955, and in *Scritti in onore di Tomaso Perassi*, 1957; "Science juridique et droit international", *Recueil des cours*, Hague Academy of International Law, 1956; "La codification du droit international et les problèmes de sa réalisation", *Recueil d'études de droit international en hommage à Paul Guggenheim*, Geneva, 1969; "Droit des traités à la lumière de la Convention de Vienne", *Recueil des cours*, Hague Academy of International Law, 1971; "Caratteri generali della comunità internazionale e del suo diritto", Università degli Studi di Roma, *Lezioni dell'anno accademico 1974-1975*; "The Internationally Wrongful Act of the State, Source of International Responsibility", eight reports to the International Law Commission, 1969-1979; "Pluralism and the Origins of the International Community", *Italian Yearbook of International Law*, 1977; "Studi sulla responsabilità internazionale", *Pubblicazioni della Facoltà di Giurisprudenza dell'Università di Camerino*, Vol. I, 1979; Vols. II and III, 1986; "Les premières collectivités interétatiques méditerranéennes", *Mélanges offerts à Paul Reuter. Le droit international: unité et diversité*, Paris, 1981; "The First International Communities in the Mediterranean World", *British Year Book of International Law*, 1982; "Le droit international dans la conception de Grotius", *Recueil des cours*, The Hague, 1983; "Positivism (International Law)", *Encyclopaedia of Public International Law*, ed. R. Bernhardt, Inst. Un., Amsterdam, 1985. "I quaranta anni delle Nazioni Unite", *La Comunità internazionale*, 1986; "Nouvelles réflexions sur la codification du droit international", *Mélanges offerts à Shabtai Rosenne*, Leiden, 1989; "Les avis consultatifs 'obligatoires' de la Cour internationale de Justice. Problème d'hier et d'aujourd'hui", *Mélanges à la mémoire de Michel Virally*, 1990; "'Binding' Advisory Opinions of the International Court of Justice", *American Journal of International Law*, 1991.

Judge Stephen M. SCHWEBEL

(Member of the Court since 15 January 1981; re-elected as from 6 February 1988; member of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989)

Born in New York City, on 10 March 1929.

Harvard University, B.A. *magna cum laude* with highest honours in government (1950); Cambridge University, studies in international law (1951); LL.B., Yale Law School (1954). Doctor *honoris causa*, Bhopal University, India (1982).

Admitted to the Bar of the State of New York (1955); of the Supreme Court of the United States (1965); and of the District of Columbia (1976).

Attorney, White & Case, New York (1954-1959).

Assistant Professor of Law, Harvard University (1959-1961).

Professor of International Law and subsequently Edward B. Burling Professor of International Law and Organization, the School of Advanced International Studies, The Johns Hopkins University, Washington, D.C. (1967-1981). Visiting lecturer or professor at Cambridge University (1957, 1983); the Australian National University (1969); the Hague Academy of International Law (1972); the Graduate Institute of International Studies, Geneva (1980); and at other universities or institutes in the United States and elsewhere.

Assistant Legal Adviser, Department of State (1961-1966); Special Assistant to the Assistant Secretary of State for International Organization Affairs (1966-1967); Consultant to the Department of State (1967-1973). Counselor on International Law, Department of State (1973-1974); Deputy Legal Adviser, Department of State (1974-1981).

Legal Adviser to the United States delegation, and Alternate Representative in the Sixth Committee, during sessions of the United Nations General Assembly (1961-1965). United States representative and chairman of the United States delegation to various committees of the United Nations, including the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964); the Special Committee on the Question of Defining Aggression (1971); and the UNCTAD Working Group on a Charter of Economic Rights and Duties of States (1973-1974).

Member of the International Law Commission of the United Nations (1977-1981). Chairman of the Drafting Committee (1978); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1977-1981).

Participated as Associate Representative, Representative, Counsel or Deputy Agent of the United States in various cases before the International Court of Justice (between 1962 and 1980). Member of the Board of Arbitration in *British Petroleum Company v. Iran and the National Iranian Oil Company* (1982-1985) and arbitrator or president in other international commercial arbitrations (1988-).

Executive Vice-President and Executive Director of the American Society of International Law (1967-1973). Honorary Vice-President (1983-).

Member of the Board of Editors, *American Journal of International Law* (1967-1981). Chairman of the Editorial Advisory Committee, *International Legal Materials* (1967-1973).

Member of the Institute of International Law; the American Society of International Law; the American Branch of the International Law Association; the American Bar Association; and the Council on Foreign Relations. Honorary Member of the Indian Society of International Law. Member of the International Advisory Committee of the Cambridge University Research Centre in International Law; the Board of Electors of the Whewell Professorship of International Law of Cambridge University; and the Board of Overseers' Committee to Visit the Harvard Law School.

Author of *The Secretary-General of the United Nations: His Political Powers and Practice*, 1952; *The Effectiveness of International Decisions*, 1971 (as editor); "Aggression, Intervention and Self-Defence in Modern International Law", *Recueil des cours*, Hague Academy of International Law, 1972; reports to the International Law Commission on the law of the non-navigational uses of international watercourses; *International Arbitration: Three Salient Problems* (1987); and some ninety articles, notes and book reviews in legal and other publications. Research and drafting assistant to United Nations Secretary-General Trygve Lie in the writing of *In the Cause of Peace*, 1954.

Judge Mohammed BEDJAOUI

(Member of the Court since 19 March 1982; re-elected as from 6 February 1988; President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987)

Born at Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law. Diploma of the Institute of Political Studies (University of Grenoble).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961) and as such participated in the independence negotiations at Evian and Lugrin.

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982).

Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. Member of the Arbitration Tribunal in the delimitation of the maritime boundary between Guinea and Guinea-Bissau (1983-1985) and of the Arbitration Tribunal for the delimitation of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in several international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980). United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation.

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law. Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta.

Author of numerous works and articles.

Judge Ni Zhengyu

(Member of the Court since 6 February 1985)

Born in Jiangsu, China, 28 July 1906.

Bachelor of Arts (Chitz University, Shanghai); Bachelor of Laws (Soochow University Law School, Shanghai); Juris Doctor (Stanford University); Honorary Scholar (Johns Hopkins University); Doctor of Laws *honoris causa* (Osmania University, India).

Lecturer on Public International Law, Private International Law, Comparative Law, Civil Law, Civil Procedure, Judicial Organization, etc., at Soochow University Law School (Shanghai), the Great China University (Shanghai), the China Public Institute (Woosung), Chitz University (Shanghai), Chaoyang Law College (Chongqing), Soochow-Shanghai Union College of Law and Commerce (Chongqing), 1930-1945.

Professor of Law and concurrently Dean of the Law Faculty and Dean of Studies, Soochow University Law School (1948-1954).

Member, Shanghai Bar Association since 1931.

Member, International Prosecution Section, International Military Tribunal for the Far East (1946-1948).

Legal Counsel, Ambassador, Ministry of Foreign Affairs of the People's Republic of China (1956-1984). Legal Counsel of Chinese Dele-

gation to the twenty-seventh session of the United Nations General Assembly (1972). Legal Counsel of Chinese Delegation to the United Nations Sea-bed Committee (1972-1973). Legal Counsel of Chinese Delegation to the Third Conference on the Law of the Sea (in Caracas, 1974; Geneva, 1975; New York, 1977; New York and Geneva, 1981 and 1982). Chinese Language Co-ordinator in the Drafting Committee of the Third Conference on the Law of the Sea (New York and Geneva, 1981 and 1982).

Member, Board of Directors, Chinese Society of International Law (1980-).

Member, United Nations International Law Commission (1982-1984).

Member of the Institute of International Law (1991).

Member, National Committee of the Chinese People's Consultative Council (1959-1984).

Honorary President of the Board of Directors, Chinese Society of Oceanography (1985-).

Author of many works and articles on international law and related subjects.

Judge Jens EVENSEN

(Judge *ad hoc* in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; Member of the Court since 6 February 1985)

Born at Oslo, Norway, on 5 November 1917.

Law degree, University of Oslo (1942); Studies abroad: Postgraduate studies at Minnesota Law School and Columbia Law School (1947); Harvard Law School (1952-1953); Doctor of Laws, Harvard University; Honorary Doctorate at the Heriot-Watt University, Edinburgh, Scotland; Part-time Associate at the Woodrow Wilson International Center for Scholars, Washington, D.C. (1975-1976).

Police Inspector and Public Prosecutor in *High Treason* cases, Oslo (1945-1946). Advocate, Supreme Court (1951). Law practice including period as Deputy Solicitor-General (1949-1961). Lecturer at the Law Faculty of the University of Oslo (1945-1973). Censor at the Law Faculty of the University of Oslo (1945-1973). Legal Adviser to the Norwegian Broadcasting Corporation. Delegate to the European Broadcasting Union (EBU).

Director-General of the Legal Department, Ministry of Foreign Affairs (1961-1973); Ambassador for negotiating the trade agreement with the European Communities (1972). Ambassador, International Law Adviser to the Ministry of Foreign Affairs (1979-1985).

Chairman of the Norwegian Commission on Maritime Limits (1961-1984); Chairman of the Norwegian Petroleum Council (1965-1979) and various other Norwegian governmental committees.

Legal Counsel for Norway before the International Court of Justice in the *Fisheries (United Kingdom v. Norway)* case (1949-1951) and *Certain*

Norwegian Loans (France v. Norway) case (1955-1957); Counsel of Norway in the advisory case concerning *Certain Expenses of the United Nations* (1961-1962); Agent and Counsel of Norway before the European Commission of Human Rights and the European Court of Human Rights (1962-1963; 1967-1969) and Counsel for Norway before various international tribunals including the United States Court of Claims acting as an International Arbitral Tribunal.

Minister of Commerce and Shipping (1973-1974).

Minister for the Law of the Sea (1974-1978).

Head of the Norwegian delegation to the Third United Nations Conference on the Law of the Sea (1973-1982), one of the Vice-Presidents of the Conference. Chairman of the Norwegian delegation to the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea (1983-1985). Representative of Norway to the Sixth Committee of the General Assembly of the United Nations. Head of the Norwegian delegation to the United Nations Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction; Vice-Chairman of the Committee (1968-1973).

Member of the United Nations International Law Commission (1979-1985); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1982-1985).

Associate Member of the Institut de droit international (since 1971). Member of the Permanent Court of Arbitration (since 1978). Member of the Norwegian-Icelandic Conciliation Commission established according to the Agreement of 28 May 1981 for the Delimitation of the Continental Shelf between Iceland and Jan Mayen.

Lectures on "Aspects of International Law relating to Modern Radio Communications", *Collected Courses*, Academy of International Law, The Hague (1965). Lectures during the extramural session of the Academy of International Law (Brasilia, 1983) on "The United Nations Convention on the Law of the Sea of 10 December 1982". Lectures on "International Law and Nuclear Weapons" at the twelfth conference of the World Peace through Law Center (Berlin, 1985). Lectures on "Working Methods and Procedures in the Third United Nations Conference on the Law of the Sea", *Collected Courses*, Academy of International Law, The Hague (1986).

Lectures at universities and societies in Norway and abroad: Belgium, Colombia, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, India, Japan, the Netherlands, Poland, Sweden, Switzerland, Turkey, the United Kingdom, the United States, the USSR and Yugoslavia, on topics such as: Hugo Grotius — His Life and Impact on the Law of Nations; The International Court of Justice; International Law and Nuclear Weapons; International Watercourses; The Law of the Sea; Mankind's Right to Peace; Oil Policy and International Petroleum Legislation; The Protection of the Environment in the Modern Law of Nations; and the United Nations Charter.

Author of several books and articles.

Judge Nikolai Konstantinovitch TARASSOV

(Member of the Court since 9 December 1985; re-elected
as from 6 February 1988)

Born at Moscow on 2 October 1923.

Graduated from the Law Faculty of Moscow State University. Post-graduate studies at the same University.

Consultant to the Legal Department of the Presidium of the Supreme Soviet of the USSR (1949-1953).

Head of secretariat for the Secretary of the Presidium of the Supreme Soviet of the USSR (1953-1956).

Counsellor, Embassy of the USSR in Iran (1956-1961).

Head of section, Deputy Head of Department, and Head of Department in the Ministry of Foreign Affairs of the USSR (1961-1968).

Deputy Permanent Representative of the USSR to the United Nations, New York (1968-1972).

Ambassador of the USSR to Mexico (1972-1976).

From 1976 to his election to the Court, Principal Counsellor, Department of Foreign Policy Planning, Ministry of Foreign Affairs of the USSR.

Representative of the USSR to numerous United Nations bodies (Commission on Human Rights, 1968-1972; Committee for sanctions against Southern Rhodesia).

Member of the USSR delegation to several sessions of the United Nations General Assembly (twenty-third to twenty-sixth ordinary sessions; fifth special session on South West Africa, 1967; fifth emergency special session on Arab-Israeli Conflict, 1967).

In his personal capacity, member of the Committee for the Elimination of Racial Discrimination and member of the International Civil Service Advisory Board (1970-1972).

Head of USSR delegation to the Vienna talks on mutual force and armaments reductions and related measures in Central Europe (1976-1981) and at the seminar on economic, scientific and cultural co-operation in the Mediterranean (1984).

Member of the Soviet International Law Association.

Judge Gilbert GUILLAUME

(Member of the Court since 14 September 1987; re-elected
as from 6 February 1991)

Born at Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); French Representative on the Legal Commission to the ICAO Assembly (1968, 1971, 1974 and 1977); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Designated arbitrator by the International Telecommunications Satellite Organization and by the International Civil Aviation Organization, the International Chamber of Commerce, the Kuala Lumpur Regional Centre for Commercial Arbitration, the Cairo Regional Centre for Arbitration – the two latter bodies established under the auspices of the Afro-Asian Legal Committee – and the International Centre for the Settlement of Investment Disputes (ICSID).

Professor at the Institute of Political Studies, University of Paris.

President of the French branch of the International Law Association

(ILA). Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the International Institute of Law of the French-speaking Countries (IDEF). Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, 1989).

Judge Mohamed SHAHABUDEEN

(Member of the Court since 6 February 1988)

Born at Vreed-en-Hoop, Demerara, Guyana, on 7 October 1931.

Bar Finals, London Inns of Court (1952). Called to the Bar, Middle Temple, London (1954). Queen's Counsel (1966). London University degrees - LL.B., B.Sc. (Econ.), LL.M., Ph.D., LL.D.

Private practice (1954-1959) followed by public legal service. Magistrate (1959). Crown Counsel (1959-1962). Solicitor General (1962-1973). Attorney General (1973-1987). Minister of Justice (1978-1987). Other ministerial appointments, including Acting Foreign Minister from time to time (1980-1987).

Member of various Guyana delegations on bilateral missions to other countries (1962-1987). Also member of various Guyana delegations to other international meetings, including: United Nations General Assembly (1972); United Nations Conference on Succession of States in respect of Treaties, Vienna (1977); Commonwealth Heads of Government Meetings, Lusaka (1979), Melbourne (1981), New Delhi (1983), Nassau (1985) and Vancouver (1987); the Cancun North/South Summit (1981); the General Assembly of the Organization of American States, St. Lucia (1981); Meetings of Ministers of Foreign Affairs of Non-Aligned Countries, Georgetown (1972) and New Delhi (1981); Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, Algiers (1981); the Conference of Heads of State or Government of Non-Aligned Countries, New Delhi (1983); the Commonwealth Caribbean Heads of Government Meetings, Ocho Rios (1982), Port of Spain (1983), Nassau (1984), Georgetown (1986) and St. Lucia (1987); the Commonwealth Law Ministers Meetings at Lagos (1975), Barbados (1980), Sri Lanka (1983) and Harare (1986); and the Commonwealth Law Conference, Hong Kong (1983).

Member of the Board of Governors of the University of Guyana (1963-1965). Member of the Council of Legal Education of the Commonwealth Caribbean (1973-1987). Member of the Commonwealth Association of Legislative Counsel (1983).

Cacique's Crown of Honour (CCH) (1970); Order of Roraima (OR) (1980); Order of Excellence (OE) (1988).

Author of various books and articles.

Judge Andrés AGUILAR MAWDSLEY

(Member of the Court since 6 February 1991)

Born at Caracas, Venezuela, on 10 July 1924.

Doctorate in Political and Social Science *summa cum laude* from the Central University of Venezuela (Caracas). Master's degree in Civil Law from McGill University, Montreal, Canada.

Lecturer in Civil Law at the Central University of Venezuela (Caracas) (from 1948) and at the Andrés Bello Catholic University (from 1954). Professor of Law at both universities (since 1958). Dean of the Faculty of Law at the Central University of Venezuela (Caracas) until first appointment as Minister of Justice in May 1958. Vice-Rector of the Andrés Bello Catholic University (Caracas) (1962-1963). Member of the Council of the Faculty of Law at the Central University of Venezuela (Caracas) (1967-1969).

Minister of Justice (1958-1962). Elected Magistrate of the Court of Cassation by the Venezuelan Congress on 7 February 1959. Did not take up this appointment in view of prior appointment as Minister of Justice by the President of the Republic. Legal counsel to and judicial representative of Petróleos de Venezuela, S.A., the national oil company of Venezuela (1975-1983). Member of the Advisory Committee on Foreign Policy, by appointment of the President of the Republic (1979-1984; 1984-1989). Chairman of the committee set up to co-ordinate studies and activities relating to the optimum use of international water resources of interest to Venezuela (1983-1986).

Legal Counsel to the Venezuelan Chamber of Construction (1951-1958). Secretary of the Governing Council of the Bar Association of the Federal District (Caracas) (1955-1956). In February 1958, elected member of the Board of Directors of the Industrial Bank of Venezuela for the biennium 1958-1959; retained this office until first appointment as Minister of Justice. Vice-President of the Organization for the Protection of Children (1962-1963). Chairman of the National Board of Directors of Caritas, Venezuela (1966-1969). Member of the governing council of the Institute for Advanced Administrative Studies (IESA) (since 1966). Delegate of the Andrés Bello Catholic University to the Second Latin American Conference on Political and Social Sciences and Vice-Chairman of this meeting, Santiago and Viña del Mar, Chile (1966). Member of the Venezuelan Justice and Peace Commission (1967). Member of the Technical Board of the Federation of Institutions for the Protection of Children (since 1968). President of the National Committee of the International Council on Social Welfare (1968). Head of the Venezuelan delegation to the Fourteenth Conference on Social Welfare, Helsinki (Finland) (1968).

and Chairman of Working Group IV set up to study social policy and the right to education and culture.

Ambassador, Permanent Representative of Venezuela to the United Nations Office and the specialized agencies with headquarters at Geneva (1963-1965). President of the International Labour Conference (Geneva, 1964). President of the Inter-Governmental Committee for European Migration (ICEM) (Geneva, 1964 and 1965). Ambassador, Permanent Representative of Venezuela to the United Nations (1969-1972 and 1986-1991). Head of the Venezuelan delegation (in the absence of the Minister for Foreign Affairs) to the United Nations General Assembly (1969-1971, 1986-1990). Chairman of the First Committee (Political and Security Questions) of the United Nations General Assembly (1970). As representative of Venezuela, served as one of the Vice-Presidents of the United Nations General Assembly (1971). Member of the Permanent Court of Arbitration (since 1970). Representative of Venezuela to the United Nations Commission on Human Rights (1968-1972) and Chairman of the Commission (1971). Ambassador Extraordinary and Plenipotentiary of Venezuela to the United States of America (1972-1974). Member of the Inter-American Commission on Human Rights (IACHR) (1972-1985) and its President for several periods (1974-1976, 1976-1978, 1979, 1985). Head of the delegation of Venezuela to the Third United Nations Conference on the Law of the Sea and Chairman of the Second Committee of that Conference (1973-1982). Member of the International Commission of Jurists (since 1979) and President of the Commission (since 1986). Co-chairman of the committee appointed by the United Nations Secretary-General on the question of United States diplomats taken hostage in Iran (1980). Member of the Human Rights Committee established under the International Covenant on Civil and Political Rights (1981-1988). Special Representative of the United Nations Commission on Human Rights to study the human rights situation in Iran (1984-1985). Principal representative of Venezuela to the United Nations Security Council (1986-1987); President of the Council (1987). Chairman of the Credentials Committee of the United Nations General Assembly (1986). President of the United Nations Economic and Social Council (1988). Member of the Board of Trustees of the United Nations Institute for Training and Research (UNITAR) (1987-1988 and 1989-1990), and Chairman of the Board (1989-1990). Ambassador, Permanent Representative of Venezuela to the United Nations (1986-1991).

Member of the Governing Council (and Chairman) of the Venezuelan United Nations Association (1967-1968). Member of the Executive Board of the American Society of International Law (1983-1986). President of the Board of Directors of the Eduardo Frei International Foundation for Democracy and Development (1984-1986). Fellow of the Academy of Political and Social Sciences of Venezuela (since 1978) and President of its governing board (1985-1986). Associate member of the Hispano-Luso-American Institute of International Law. Member of the Institute of International Law.

Order of the Liberator, Grand Sash. Order of Andrés Bello, First Class. Order of Francisco de Miranda, First Class. Cross of the Armed Forces for Co-operation, First Class. Knight Commander of the Order of Saint Gregory the Great (Holy See). Grand Cross of the Order of May (Argentine Republic). Order of José María Vargas (Central University of Venezuela), First Class.

Author of numerous books and articles.

Judge Christopher Gregory WEERAMANTRY

(Member of the Court since 6 February 1991)

Born in Colombo, Sri Lanka, on 17 November 1926.

B.A.; LL.B.; LL.D. (University of London); LL.D. (*honoris causa*) (University of Colombo).

Advocate, Supreme Court of Sri Lanka (1948-1965). Lecturer and Examiner, Council of Legal Education, Sri Lanka (1951-1956). Commissioner of Assize, Supreme Court of Sri Lanka (1965-1967). Justice of the Supreme Court of Sri Lanka (1967-1972). Member, Council of Legal Education, Sri Lanka (1967-1972). Honorary Visiting Professor, University of Colombo (since 1984). Honorary Life Member, Bar Association of Sri Lanka.

Sir Hayden Starke Professor of Law, Monash University, Melbourne, Australia (1972-1991). Chairman, Commission of Inquiry into International Responsibility for Phosphate Mining on Nauru (1987-1988).

Panellist, Unesco Seminar on Teaching of Human Rights, Canberra (1980); Member, United Nations University Task Force on Human Rights (1982); Vice-Chairman, United Nations Centre against *Apartheid*/Government of Nigeria Conference on Legal Status of *Apartheid* Régime, Lagos (1984); Panellist, SCOPE/ENUWAR/UNU (Scientists' Committee on Problems of the Environment/Environmental Consequences of Nuclear War/United Nations University), International Conference on Nuclear Danger, Tokyo (1985); Lecturer, United Nations Human Rights Commission Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Palais des Nations, Geneva (1988); Editor, United Nations University/United Nations Human Rights Commission's two-volume study on Science, Technology and Human Rights (1988-1990); Co-ordinator, United Nations University/Netherlands Institute of Human Rights Workshop on Science, Technology and Human Rights, Utrecht (1989).

Visiting Professorships and Academic Appointments: University of Tokyo (1978); University of Stellenbosch (1979); University of Papua New Guinea (1981); University of Florida (1984); Lafayette College, Pennsylvania (1985); University of Hong Kong (1989).

Member, Editorial Board: *Sri Lankan Journal of International Law*; *Human Rights Quarterly*, Johns Hopkins University; *Interdisciplinary Peace Research*, La Trobe University; *Journal of Ceylon Law*.

Associate Academician, International Academy of Comparative Law, Paris; Panel of Arbitrators, American Arbitration Association; Vice-President, International Association of Lawyers against Nuclear Arms; Vice-President, International Commission of Jurists, Victoria; Past President, World Federation of Overseas Sri Lankan Organizations; Vice-Patron, United Nations Association of Sri Lanka; Member, Club of Rome (Australia); American Society of International Law; Commonwealth Lawyers Association; Society of Public Teachers of Law; World Association of Law Professors; Lawasia; World Association on the Philosophy of Law and Legal Philosophy.

Books: *The Law of Contracts, being a Comparative Study of the Roman-Dutch, English and Customary Laws of Contract in Ceylon* (2 vols.), 1965; *The Law in Crisis: Bridges of Understanding*, 1975; *Equality and Freedom: Some Third World Perspectives*, 1976; *Human Rights in Japan*, 1979; *Apartheid: The Closing Phases?*, 1980; *An Invitation to the Law*, 1980; *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, 1983; *Law: The Threatened Peripheries*, 1984; *Nuclear Weapons and Scientific Responsibility*, 1987 (translated into Japanese); *Islamic Jurisprudence: Some International Perspectives*, 1988; *Human Rights and Scientific and Technological Development*, ed., 1990; *Nauru: Environmental Damage under International Trusteeship*, 1992.

Reports: *Report of the Nauru Commission of Inquiry* (10 vols.), 1988 (joint author).

Articles in law journals in Asia, Africa, Australasia, Europe and North America.

Published lectures include: "Fundamental Perspectives on Equality and Freedom", World Congress on Equality and Freedom, St. Louis, Missouri (1976), an official event marking the American Bicentennial; "National and Transnational Systems as Denigrators of Human Rights", Unesco Seminar on Teaching of Human Rights, Canberra (1981); "The Right to Development", Lawasia Seminar on Establishment of a Regional Human Rights Framework for the Pacific, Suva (1985); "Cultural and Ideological Pluralism in Contemporary Public International Law", World Congress of International Academy of Comparative Law, Sydney and Melbourne (1986); "Traffic in Armaments: A Blind Spot in Human Rights and International Law", Joint Soviet/US International Conference on Nuclear Weapons and International Law, New York (1987); "Emerging Dimensions of Sovereignty in International Law", International Seminar on the Coming Global Civilization, Moscow (1988); "The Teaching of Human Rights", United Nations Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Geneva (1988); "The Law, Nuclear Weapons and the Real World", First World Convention of Lawyers against Nuclear Arms, The Hague (1989); "International Arbitration under the UNCITRAL Rules", Regional Seminar on International Arbitration, Kuala Lumpur (1989); "Judicial Reasoning under the Common Law", Commonwealth Law Conference, Auckland (1990).

Order of *Deshamanya* (Sri Lanka).

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991)

Born at Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme d'études supérieures de sciences politiques*, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme d'études supérieures de droit public*, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Laureate of the University of Madagascar. Laureate of the National Association of Doctors of Law. Laureate of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Director of the Legal and Political Science Department of the University of Madagascar. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas) and the Institute of Advanced International Studies, La Réunion and Burundi. Director of the French-speaking research seminar at the Hague Academy of International Law (1987). Member of the Board of *Agrégation*, Examiners of the African and Malagasy Council on Higher Education, Ouagadougou.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Seabed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-Chairman of the First African Seminar on International Humanitarian Law, Yaoundé (1977). Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier*

Dispute (Burkina Faso/Republic of Mali). Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973).

Member and Vice-President of the Malagasy Academy (1974); President of the ethics and political science section (1975-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988). Member of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays and articles and has given lectures at a number of seminars.

Judge Bola A. AJIBOLA

(Member of the Court since 5 December 1991)

Born as Prince Bola Adesumbo Ajibola to the Royal Family of Gbdaela II, on 22 March 1934, in Ago-Owu, Abeokuta, Ogun State, Nigeria.

Called to the Bar, Lincoln's Inn, 1962 (Barrister-at-Law); holds Bachelor of Laws Degree of London University; legal practitioner for 23 years, mostly in Lagos and also in all other parts of Nigeria; Principal Partner of Bola Ajibola and Co., with offices in Lagos, Ikeja, Abeokuta and Kaduna (specialization: commercial law practice with particular bias for international arbitration).

Attorney-General and Minister of Justice of the Federal Republic of Nigeria (1985-1991); President of the Association of Arbitrators of Nigeria; President of the Nigerian Bar Association (1984-1985); conferment of an Award of Senior Advocate of Nigeria (1986); Chairman of the Body of Senior Advocates of Nigeria (1985-1991); Chairman of the Disciplinary Committee of the Bar (1985-1991); Chairman of the General Council of the Bar (1985-1991); Chairman of the Advisory Committee on the Prerogative of Mercy (1985-1991); Member of the Advisory Judicial Committee (1985-1991); Member of the Judicial Service Committee (Abuja) (1987-1991); Vice-Chairman of the Body of Benchers (1989-1990); Member of the Nigeria Police Council (1989-1991); Chairman of the Task Force for the Revision of the Laws of the Federation (1990).

Leader of the Nigerian Delegation to the United States of America to Initial an Executive Agreement on Procedure for Mutual Assistance on

Law Enforcement Matters (1987) and of the Delegation to conclude a Treaty on Mutual Assistance in Criminal Matters (1989), of the Delegation to the United Kingdom to conclude a Treaty concerning the Investigation and Prosecution of Crime and the Confiscation of the Proceeds of Crime (1989), and of the Delegation to the Islamic Republic of Iran and to Algeria, for bilateral talks on Technical and Legal Co-operation (1991).

Member of the Nigerian Delegation to the United Nations General Assembly and Nigerian representative to the Sixth Committee (1986); temporary President of the United Nations General Assembly at its seventeenth special session on narcotic drugs (1990); Member of the International Law Commission (1986-1991).

Member of the Permanent Court of Arbitration (The Hague); Member of the International Chamber of Commerce Court of Arbitration, Paris; Member of the International Maritime Arbitration Commission, Paris; Member of the Panel of International Arbitrators of the London Institute of Arbitrators; Member of the International Advisory Committee of the World Arbitration Institute, United States of America.

Initiated the first ever African Law Ministers Conference, Abuja (1989) (attended by 32 African countries); Chairman of Meeting of ECOWAS Council of Law Ministers, Lagos, Nigeria (1990), where the Treaty Establishing the Court for the Economic Community of West African States was drafted and agreed to by ECOWAS law ministers; leader of the Nigerian Delegation to the Ethiopian All-Party Conference on Peaceful and Democratic Transition (1991); Chairman of the First Meeting of the Working Committee, All-Africa Law Ministers Conference, Cairo (1991); Member of the Nigerian Delegation to the World Peace through Law Conferences in Seoul, South Korea (1987), and Beijing, China (1990); leader of the Nigerian Delegation to the World Conference on the Reform of Criminal Law, Canada (1987), to the Commonwealth Law Conference in Auckland, New Zealand (1990) and the Commonwealth Law Ministers Conference in Christchurch, New Zealand (1990), to the World Ministerial Drugs Summit on Action to Reduce the Demand for Drugs and to Combat Cocaine Threat (1990), and to the 17th Session of the Asian African Legal Consultative Committee in Cairo (1991).

President of the World Association of Judges; Vice-President of the International Contractual Relations Commission of the International Chamber of Commerce; Vice-President of the Institute of International Business Law and Practice, Paris; National Chairman of the World Peace through Law Center; represented Africa in the demonstration trial on the law of the sea at the World Peace through Law Conference (Manila, 1977); Fellow of the Chartered Institute of Arbitrators; Fellow of the Nigerian Institute of Advanced Legal Studies; Friend of the Institute of Advanced Legal Studies, London.

Member of the African Bar Association, the International Bar Association, the Association of World Lawyers, the International Chamber of Commerce, the Commonwealth Law Association, the International

Council on Commercial Arbitration, the World Arbitration Institute, and the Society for the Reform of Criminal Law.

Editor, *Nigeria's Treaties in Force*, 1970-1990; Editor, *All Nigeria Law Reports*, 1961-1990; Editor-in-Chief, *Justice* (a monthly journal of contemporary legal problems); General Editor of the *Federal Ministry of Justice Law Review Series (FMJLRS)*; Member of the Editorial Advisory Board of the University of Buckingham.

Publications include: *Principles of Arbitration*, 1980; *New Concepts in the Resolution of Disputes in International Construction Contracts*, 1981; *Work Paper on International Commercial Arbitration*, 1982; *Arbitration and State Enterprises - Case Study of Nigerian Cement Transactions*, 1983; *Modernization of National Arbitration Laws in Aid of International Commercial Arbitration*, 1984; *The Law and Settlement of Commercial Disputes*, 1984; *Law Development and Administration in Nigeria*, 1987; *Towards a Better Administration of Justice System in Nigeria*, 1988; *Integration of the African Continent through Law*, 1988; *Narcotics: Law and Policy in Nigeria*, 1989; *Compensation and Remedies for Victims of Crime*, 1989; *Banking Frauds and Other Financial Malpractices in Nigeria*, 1989; *Women and Children under Nigerian Law*, 1990; *Scheme relating to Mutual Assistance in Criminal Matters and the Control of Criminal Activities within Africa*, 1990; "Human Rights under Military Rule in Africa: The Nigerian Experience" in *Essays in Honour of Judge Taslim Olawale Elias*, 1991. Author of numerous articles and conference papers.

1987 World Jurist Award (under the auspices of World Peace through Law at Seoul); Senior Advocate of Nigeria; Recipient of 1986 Ogun State of Nigeria Outstanding Citizen Merit Award; Life Member, Nigerian Institute of International Affairs; Life Member, Body of Benchers, Nigeria; Knight of the Order of the British Empire.

II. MEMBER OF THE COURT MAINTAINED IN A PARTICULAR CASE AFTER THE EXPIRY OF HIS TERM OF OFFICE

Judge José SETTE-CAMARA

(Member of the Court since 6 February 1979; Vice-President 1982-1985; continued to sit after 5 February 1988 as member and President of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* since 1986; chosen to sit as Judge *ad hoc* in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*)

Born in Alfenas, State of Minas Gerais, Brazil, on 14 April 1920.

LL.B., Law School of the University of Minas Gerais.

Master in Civil Law, McGill University, Montreal, Canada.

Member of the Brazilian Society of International Law. Member of the Institute of International Law.

Entered the Brazilian diplomatic service in 1945. Permanent Represen-

tative in Geneva (1960-1961). Ambassador to Canada (1961). Ambassador to Switzerland (1963-1964). Permanent Representative to the United Nations (1964-1968). Ambassador to Czechoslovakia (1972-1979).

Head of the Brazilian delegation to the nineteenth, twentieth and twenty-first sessions of the General Assembly. Representative in the Security Council (1964 and 1967-1969). Delegate to the Sixth Committee of the General Assembly (1970-1978).

Elected Member of the International Law Commission to complete Gilberto Amado's mandate (1970). Elected Member of the International Law Commission by the General Assembly for the periods 1971-1976 and 1977-1982. General Rapporteur, Vice-Chairman and Chairman of the International Law Commission.

President of the United Nations Conference on the Representation of States in their Relations with International Organizations, Vienna (1975). Head of the Brazilian delegation to the United Nations Conference on Succession of States in Respect of Treaties. President of the ILO Commission of Enquiry on the Application of Labour Conventions in Nicaragua (November 1990).

Author of various publications on international law and international problems, including: *The Ratification of International Treaties*, 1949; "A Doutrina Larreta", *Boletim da Sociedade Brasileira de Direito Internacional*, 1946; "Hans Kelsen e os Fundamentos do Direito Internacional", *Boletim da Sociedade Brasileira de Direito Internacional*, 1947; "United Nations and International Law Making: the Vienna Convention on the Representation of States in Their Relations with International Organizations", *UN Law Fundamental Rights*, edited by Antonio Cassese, 1979. "Pollution of International Rivers" in the *Recueil des cours* of the Academy of International Law, The Hague, 1984; "The International Law Commission: Discourse on Method", *International Law at the Time of Its Codification. Essays in Honour of Roberto Ago*, Milan, 1987; "A conclusão de Tratados Internacionais e o Direito Constitucional Brasileiro", *Boletim da Sociedade Brasileira de Direito Internacional*, 1990; "Methods of Obligatory Settlement of Disputes", *International Law: Achievements and Prospects*, Paris/Dordrecht, 1991.

III. JUDGES *Ad Hoc*

Judge *ad hoc* Nicolas VALTICOS

(Judge *ad hoc* in the case, referred to a Chamber, concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* and in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*)

Born on 8 April 1918 (Greek nationality).

Studied law at the Faculty of Law of the University of Paris. First degree in law (1939). Ph.D. in law (doctorat d'Etat, mention très bien)

(1948). Faculty prize and Dupin senior prize awarded by the Paris Faculty of Law for doctoral thesis (1948-1949).

Barrister at Law in Athens, 1941.

Chief of Section at the Commission administering relief in Greece (under the auspices of the International Committee of the Red Cross) (1942-1945).

Joined the International Labour Office in 1949. In 1955 appointed Chief of the Application of Conference Decisions Division. In 1964 appointed Chief of the International Labour Standards Department. From 1976 to 1981 Assistant Director-General, Adviser for International Labour Standards.

Member and Chairman of various international arbitral tribunals and commissions of enquiry.

Judge *ad hoc* in the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*.

Associate Professor at the Faculty of Law of the University of Geneva (1972-1981).

Member of the Institute of International Law, Secretary-General (1981-1991), First Vice-President (1991-). Member of the Permanent Court of Arbitration.

Doctor *honoris causa* of the Universities of Utrecht (Netherlands), Leuven (Belgium), Athens (Greece) and Neuchâtel (Switzerland).

Member of the Academy of Athens.

Award of the Professorship Henri Rolin of international law (Belgium) for 1979-1980.

Honorary Member of the American Society of International Law. Member of the Société française pour le droit international, of the International Law Association and of the Greek Society of International Law. Member of the Council of the International Institute of Human Rights.

Has given many lectures, in particular at the Hague Academy of International Law (twice), at the International Institute of Human Rights (Strasbourg), at the International Seminar for Diplomats (Salzburg, Austria), at the Institut des hautes études internationales (Paris), at the Graduate Institute of International Studies (Geneva), and at various universities and societies in Belgium, France, Greece, Italy, Japan, Poland, Romania, Switzerland, the United Arab Emirates, the United States.

Has published over 120 studies, articles and books on questions of international law, human rights, civil law and labour law.

Judge *ad hoc* Paul Henning FISCHER

(Judge *ad hoc* in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)* and in the case concerning *Passage through the Great Belt (Finland v. Denmark)*)

Born on 24 March 1919.

Bachelor of Laws (1943), Doctor of Laws, University of Copenhagen (1957).

Assistant Professor of Public International Law, University of Copenhagen (1948-1952).

Attaché of the Danish Legation, Stockholm (1944); Secretary and Head of Section, Ministry of Foreign Affairs, Copenhagen (1946); Secretary of Legation, The Hague (1952); Head of Section, subsequently Head of Division and Deputy Under-Secretary, Ministry of Foreign Affairs (1955); Ambassador to Warsaw, in addition accredited to Bucharest and Sofia (1960); Permanent Under-Secretary of State for Foreign Affairs (1961); Ambassador to Paris (1971); Ambassador to Bonn (1980-1989); Treasurer of the Royal Orders; Chamberlain at the Royal Danish Court.

Alternate Representative, Danish delegation to the fourteenth session of the General Assembly of the United Nations (1959); Alternate Representative, Danish delegation to the fifteenth session of the General Assembly of the United Nations (1960).

Conciliator under the Vienna Convention on the Law of Treaties (1981); Member of the Permanent Court of Arbitration (1982); Member of the CSCE Dispute Settlement Mechanism (1991).

Publications: "European Coal and Steel Community, International Law Studies on International Co-operation" and several publications on legal and international subjects.

Decorations: Grand Cross of the Order of Dannebrog and several foreign Grand Crosses.

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

(Judge *ad hoc* in the case, referred to a Chamber, concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*)

Born in Vigo (Spain) on 18 November 1929.

Awarded the *Gran Cruz del Mérito Civil* (1987).

Licenciado (1952) and Doctor of Law (1959) of the University of Valladolid (Spain). *Diplômé d'études supérieures européennes* (1955) and Doctor of Law (1957) of the University of Saar (Federal Republic of Germany). Member of the Bar of Madrid. Adviser in questions relating to the peaceful settlement of international disputes.

Member of the International Fact-Finding Commission established by Additional Protocol I to the Geneva Conventions of 1949 for the protection of war victims.

Member of the Permanent Court of Arbitration. Member of the Institute of International Law.

Former Registrar of the International Court of Justice (1980-1986). Former Deputy Director of the Codification Division at the Office of Legal Affairs of the United Nations Organization and Deputy Secretary of the International Law Commission, as well as of diplomatic plenipotentiary conferences on codification and progressive development of international law.

Professor of the Instituto Universitario Ortega y Gasset (Madrid). Former Director of Studies at the Centre for Studies and Research of the Hague Academy of International Law.

Member of the Société française pour le droit international, the International Law Association, the American Society of International Law and the Instituto Hispano-Luso-Americano de Derecho Internacional. Honorary Member of the Asociación española de profesores de derecho internacional y relaciones internacionales.

Author of numerous publications in the field of international law, including on the International Court of Justice and its procedures.

Judge *ad hoc* Kéba MBAYE

(Judge *ad hoc* in the case concerning the *Arbitral Award of 31 July 1989* (Guinea-Bissau v. Senegal))

Born at Kaolack, Senegal, on 5 August 1924.

Holder of the diploma of advanced studies in private law (Paris); holder of the certificate of the Ecole nationale de la France d'outre-mer (Magistrature Department).

Acting Deputy-Judge (1954-1958); Deputy to the Procureur de la République, St. Louis, Senegal (1958-1960).

Member of the Supreme Court of Senegal (1960) and its First President (1964-1982). Honorary First President of the Supreme Court.

President of the Constitutional Council of Senegal.

Lectured at the Faculty of Law of the University of Dakar and at the Ecole nationale d'administration of Senegal (1967-1978).

Former Chairman of the Commission on the Codification of the Law of Civil and Commercial Liabilities.

Doctor *honoris causa* of the Universities of Lille II, of Savoie (France), of Bhopal (India) and of Emory (United States of America).

Has been a member of various United Nations bodies and has in particular participated as member and chairman in the work of the Commission on Human Rights, the Commission responsible for seeking the settlement of any dispute between States Parties to the Convention against Discrimination in Education, the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and of the *Ad Hoc* Working Group of Experts to investigate violations of human rights in southern Africa; member of the ILO Committee of Experts.

Corresponding Member of the Académie royale des sciences d'outre-mer de Belgique; Member of the International Academy of Comparative Law and of the Institute of International Law; Member of the International Law Association; Member of the Curatorium of the Hague Academy of International Law.

Former President and Member of the International Committee on

Comparative Law, of the International African Law Association, of the International Committee for Information and Documentation in the Social Sciences; Member of the Governing Board of the European Foundation for Human Rights; Member of the International Institute of Procedural Law; Vice-President of the International Institute of Humanitarian Law; Member of the Administrative Council of the International Penal Law Association, of the International Criminology Association and of the Société de législation comparée; Vice-Chairman of the Executive Committee of the International Institute of Human Rights (René Cassin Foundation); former Chairman of the International Commission of Jurists; Honorary President of the World Federation of United Nations Associations; President of the International Academy of Human Rights; Member of the Société française pour le droit international.

Was President of the Legal Sub-Commission of the OAU Commission of mediation in the border dispute between Upper Volta and Mali and a Member of the Permanent Court of Arbitration; was General Rapporteur at the OAU Conference which adopted the African Charter on Human and Peoples' Rights, and a member of the Arbitration Tribunal in the delimitation of the maritime boundary between Guinea and Guinea-Bissau (1983-1985).

Member of the International Court of Justice from 6 February 1982 to 5 February 1991; Vice-President of the Court from 1987 to 1991.

Author of numerous publications concerning the law of Senegal, the law of black Africa, human rights in general, and in particular the right to development. Has given a course on Interest to Act before the International Court of Justice at the Hague Academy of International Law (1988).

Judge *ad hoc* Mohsen AGHAHOSSEINI

(Judge *ad hoc* in the case concerning the *Aerial Incident of 3 July 1991* (*Islamic Republic of Iran v. United States of America*))

Born in Tehran, Islamic Republic of Iran, on 10 October 1945.

Studied at the Faculty of Law, University of Tehran (LL.B., 1967); University of London (Postgraduate Diploma in Law, 1971, and LL.M., 1973); University of Oxford (B.Litt., 1978); and Gray's Inn, London (1972-1973).

Legal Adviser for International Claims, Ministry of Industries (1979). Legal Adviser and Head of the Legal Department, Industrial Development and Renovation Organization of Iran (1979-1982). Lecturer, Faculties of Law, Letters, and Divinity, Tehran University (1980-1982). Legal Consultant to the Central Bank of the Islamic Republic of Iran (1981). Head of Delegation, Ministry of Industries, to Vienna Conciliation held under the Algerian Declarations (1982). Legal Adviser for Foreign Claims, the Shipping Lines Organization of the Islamic Republic of Iran

(1981-1982). Legal Adviser to Iran's Bureau for the Coordination and Implementation of the Algerian Declarations (1982). Legal Assistant, Iran-United States Claims Tribunal (1982-1984). *Ad hoc* Arbitrator, Iran-United States Claims Tribunal (1984). Arbitrator in certain cases before the International Chamber of Commerce (1985 and 1991). Deputy in Charge of Legal Affairs, the Hague Branch of the Bureau of International Legal Services of the Islamic Republic of Iran (1984-1986); and subsequently its Director (1986-1990). Member of the Iran-United States Claims Tribunal (since 1990).

Has written a number of research papers and articles on various legal issues.

Judge *ad hoc* Georges Michel ABI-SAAB

(Judge *ad hoc* in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*)

Born at Heliopolis, Cairo, Egypt, on 9 June 1933.

Licencié en droit of the University of Cairo (1954). Postgraduate studies in Law, Economics and Politics at the Universities of Cairo (D.E.S. in Private Law and in Public Law), Paris, Michigan (M.A. Econ.), Harvard (LL.M., S.J.D.), Cambridge and Geneva (Doctor of Political Science). Diploma of the Hague Academy of International Law.

Professor of International Law at the Graduate Institute of International Studies, Geneva, since 1969 (having taught there since 1963).

Member of the Institute of International Law.

Member of the Egyptian delegation to the Conference of Government Experts (1972) and the Diplomatic Conference on the Reaffirmation and Development of Humanitarian Law Applicable in Case of Armed Conflict (1974-1977).

Counsel and Advocate of the Tunisian Government in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* before the International Court of Justice; and of the Egyptian Government in the arbitration on the *Frontier Dispute (Taba) (Egypt/Israel)*.

Judge *ad hoc* in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, before a Chamber of the International Court of Justice.

Author of numerous books and articles, including *Les exceptions préliminaires dans la procédure de la Cour internationale. Etude des notions fondamentales de procédure et des moyens de leur mise en œuvre*, Paris, Pedone, 1967; *International Crises and the Role of Law: The United Nations Operation in the Congo 1960-1964*, Oxford University Press, 1978; *The Concept of International Organization* (as editor), Paris, Unesco, 1981 (French edition, 1980); and two courses at the Hague Academy of International Law: "Wars of National Liberation in the Geneva Conventions and Protocols" (*Recueil des cours*, Vol. 165 (1979-IV)), and the General Course in 1987.

Judge *ad hoc* Bengt Henry Gabriel Arne BROMS

(Judge *ad hoc* in the case concerning *Passage through the Great Belt*
(*Finland v. Denmark*))

Born in Sortavala, Finland, on 16 October 1929.

University of Helsinki, LL.E. (1951), LL.M. (1951), M.Pol.Sci. (1954), LL.D. (1959); University of Michigan, LL.M. (1953); Cambridge University, Diploma in International Law (1957). Qualified Judge in Finland (1957).

Professor of Constitutional and International Law, and Vice-Dean and Dean of the Law Faculty, University of Turku (1962-1970); Professor of International and Constitutional Law and Vice-Dean of the Law Faculty, University of Helsinki (since 1970).

Member of the High Court of Impeachment of the State of Finland (since 1985); Member of the International Court of Arbitration set up by the International Chamber of Commerce in Paris (since 1985); Member of the Permanent Court of Arbitration in The Hague (since 1986); Judge and Chairman of Chamber I at the Iran-United States Claims Tribunal in The Hague (since 1988). Nominated by the Government of Finland to the International Centre for the Settlement of Investment Disputes (ICSID) panels of arbitrators and mediators since Finland joined the ICSID Convention.

Member of the delegation of Finland to the General Assembly of the United Nations (1967, 1972-1979, 1981-1988). Vice-Chairman of the Sixth Committee of the General Assembly (1974). Chairman of the delegation of Finland to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (1975-1989). Chairman of the Committee (1975-1979, 1983, 1988). Vice-Chairman (1981-1982, 1984-1987). Member of the Special Committee on the Question of Defining Aggression (1968, 1972-1974). Chairman (1974). Vice-Chairman (1972-1973).

Representative of the State of Finland in the Aaland Island Delegation (1982-1987). Member of the Aaland Islands Committee to draft a new constitution for the Aaland Islands (1981-1987). Member of the Committee to Review the Constitution of Finland, nominated by the Cabinet of Finland (1983-1984).

Associate Member of the Institut de droit international (1973-1979). Member since 1979; Member of the Academy of Sciences of Finland (since 1980). Member of the Board of the Academy of Sciences (1983-1989); Honorary Member (Academician) of the Hungarian Academy of Sciences (1988); Member of the World Association of Professors in International Relations (WAIR) (1985); Member of the Academia Europaea (1989). President of the Finnish Branch of the International Law Association (since 1980); Member of the Executive Council of the International Law Association (London) (since 1980); Chairman of the Board of the Institute for Developing States of the University of Helsinki

(1982-1987). Member of the delegation of Carelia to develop economic and cultural life in Eastern Finland (since 1971). Director of the Institute of International Law at the University of Helsinki (since 1970). Chairman of the Board to arrange the Session of the Institut de droit international in Helsinki in 1985; Chairman of the Board of the First, Second, Third and Fourth Summer Seminars in Public International Law at the University of Helsinki (1987-1988; 1990-1991).

Invited by the Universities of Turku, Tampere, Rovaniemi, Uppsala, Stockholm and Bergen to give opinions on the applicants for Chairs in International Law and Political Science.

Principal publications: Books: *The Doctrine of Equality of States as Applied in International Organizations*, Dissertation, 1959; *The Legal Status of the Suez Canal*, 1961; *The Foreign Affairs Committee of the Parliament of Finland* (in Finnish), 1961; *Eduskunnan ulkoasiainvaliokunta. Vertaileva valtiosääntöoikeudellinen tutkimus*, 1967; *Itävallan pysyvän puolueettomuuden kehitys ja jäsenyys Yhdistyneissä Kansakunnissa*, 1968; *Yhdistyneet Kansakunnat*, 1968, 2nd ed., 1976; *The Definition of Aggression in the United Nations* (1968); *Kansainvälinen oikeus*, 1978; *The United Nations* (1990). Articles: "The Definition of Aggression", in 154 *Recueil des cours* (1977-I), pp. 299-400; and a large number of articles in Finnish, Swedish, English and French on international and constitutional law.

President Urho Kekkonen's Prize (1975).

Several medals during the war of 1941-1945; Commander of the Finnish Order of the Lion (1980).

Judge *ad hoc* José María RUDA

(Judge *ad hoc* in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar v. Bahrain*))

Born at Buenos Aires on 9 August 1924.

Doctor of Laws. Lawyer, Faculty of Law and Social Sciences, University of Buenos Aires (1949). Master of Law (in International Law), New York University (1955). Doctor of Laws *honoris causa* of the University of Punjab (1976), the Universidad Autónoma de Madrid (1990) and Peking University (1990).

Member of the Institute of International Law; Member of the International Law Association; Member of the Inter-American Institute of International Juridical Studies; Member of the Hispano-Luso-American Institute of International Law; Member of the International Institute of Space Law; Member of the Permanent Court of Arbitration; Member of the Curatorium of the Hague Academy of International Law.

Member of the International Court of Justice from 6 February 1973 to 5 February 1991; member of the Chamber formed by the Court to deal with the case concerning the *Frontier Dispute* (*Burkina Faso*).

Republic of Mali), 1983-1987; President of the Court from 1988 to 1991.

Member and President of the Iran-United States Claims Tribunal (since 1991).

Professor of Public International Law at the Faculty of Law and Social Sciences of the University of Buenos Aires. Former Professor of Public International Law at the National Defence College. Visiting Professor at the Colegio de México; course on Argentine foreign policy in the twentieth century (August 1963). Lectures on reservations to treaties at the Hague Academy of International Law (1975).

Officer, Division of Codification of International Law of the Office of Legal Affairs of the United Nations Secretariat (1950-1955). Rapporteur of the Sixth Committee of the United Nations General Assembly at the seventeenth session of the United Nations General Assembly (1962); Chairman of the Committee at the eighteenth session (1963). Member of the International Law Commission of the United Nations (1964-1972); Chairman of the Commission (1968); observer for the Commission at the meeting of the Inter-American Juridical Committee (Rio de Janeiro, 1968); member of the Drafting Committee (1965, 1966, 1967 and 1970).

Counsellor, first class, at the Argentine Embassy in La Paz, Bolivia (1957-1959). Chef de Cabinet to the Minister for Foreign Affairs and Worship (1959-1961). Legal Counsel (1961-1965). Permanent Representative to the United Nations (1965-1970). Agent for the Argentine Republic before the arbitration tribunal in the *Rio Encuentro* case (London, 1965-1968). Ambassador Extraordinary and Plenipotentiary, Under-Secretary for Foreign Affairs and Worship (1970-1973).

Representative at the 1959-1969 sessions of the United Nations General Assembly and Chairman of the Argentine delegation (1966-1969); delegate to the Eighth Meeting of Consultation of Ministers of Foreign Affairs (Punta del Este, 1962); representative at the United Nations Conference on Consular Relations and member of the Drafting Committee of the Convention on Consular Relations (Vienna, 1963); Chairman of the Argentine delegation to the Mixed Argentine-Bolivian Commission (1963); delegate to the Commission on River Traffic with Paraguay (1964); Chairman of the Argentine delegation to the Mixed Argentine-Uruguayan Commission on a comprehensive survey of the River Plate (1964-1966); delegate to the first extraordinary conference (Washington, 1964); representative in the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (New York, 1966 and 1968); representative at the United Nations Conference on the Law of Treaties (Vienna, 1968); representative in the United Nations *Ad Hoc* Committee on the Sea-Bed, Rio de Janeiro (1968), and in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction (1969-1970).

Author of numerous works and articles on public international law.

Judge *ad hoc* Ahmed Sadek El-KOSHERI

(Judge *ad hoc* in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*)

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musulman (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956), Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philosophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes University.

Faculty Member of the Law School, Ain Shams University, Cairo (1958-1974). Visiting Professor, Beirut Arab University (1963-1964) and Nanterre University (Paris X) (1987-1988). Professor of International Economic Law and Vice-President of Senghor University, Alexandria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Founding General Counsel of the Arab Fund for Economic and Social Development, Kuwait (1963-1964). Legal Adviser of the Ministry of Oil and Finance, Kuwait (1968-1969). Secretary-General of the Islamic Development Bank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council for International Commercial Arbitration (ICCA). Member of the Conseil d'Arbitrage Franco-Arabe. Member of the Scientific Council of the International Business Law Institute. International Chamber of Commerce, Paris.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Judge *ad hoc* Antonio de Arruda FERRER-CORREIA

(Judge *ad hoc* in the case concerning *East Timor (Portugal v. Australia)*)

Born on 15 August 1912.

Licentiate (1935) and Doctor (1939) of Law, University of Coimbra. Doctor *honoris causa* (1989) of the University of Aveiro (Portugal) and the Federal University of Rio de Janeiro (Brazil).

Assistant Professor (1940-1948) and Titular Professor (from 1948) in the Faculty of Law of the University of Coimbra, teaching the following subjects: Introduction to the Study of Law, Private Law, Civil Procedure, Commercial Law and Private International Law. From 1964, teaching at the Faculté Internationale de Droit Comparé (Strasbourg), and Member of its Executive Commission from 1965; Dean of the Faculty of Law

(1974) and Rector of the University of Coimbra (1976-1982); Rector emeritus (appointed with approval of the Ministry of National Education) in 1982.

Has lectured extensively at various universities and other institutions in Portugal and abroad.

Took part in the preparation of the Portuguese Civil Code of 1966 and in the revision of the draft of the general part of the Portuguese Criminal Code (1963); appointed President of the Commission for the Revision of the Commercial Code (1977) and later of the Commission for the Reform of Commercial Legislation (1985). Elected by Parliament as a Member of the High Council of the Judiciary (1985) and appointed (by the Ministry of Justice) as President of the Portuguese section of the International Commission on Civil Status (ICCS) (1986).

Participated in the Ibero-American Congress of International Law held in Madrid (1951) and in the congresses organized by the Hispano-Luso-American Institute of International Law at São Paulo (1953), Lisbon (1972) and Madrid (1977). General Rapporteur at the Eighth Congress of the International Academy of Comparative Law (Pescara, 1970) and President at five of the six sessions held by the Faculté Internationale de Droit Comparé in Portugal (1965, 1966, 1971, 1980 and 1987).

Member of the Institute of International Law; Rapporteur of the 12th Commission (international sale of works of art) at the Basle session (1991). Member of the International Academy of Comparative Law (Paris), of the International Comparative Law Association (Paris) and of the Institut du Droit et des Pratiques des Affaires Internationales (Paris). Honorary Member of the Institute of Brazilian Lawyers. Honorary President of the Luso-Brazilian Institute of Comparative Law. Founder Member of the Fondation de l'Université de l'Europe (Paris). Member (since 1959) and Vice-President of the Board of Administration of the Calouste Gulbenkian Foundation.

Grand Cross of several Portuguese and foreign orders.

Editor of the *Revue de législation et de jurisprudence* and Director of the *Revue de droit et d'économie* since 1975. Has given a course at the Hague Academy of International Law on "Les problèmes de codification en droit international privé", *Recueil des cours* (1975).

Principal publications: *Dolo e preterintencionalidade*, 1935; *Erro e interpretação na teoria do negócio jurídico*, 1939 (1st ed.), 1968 (2nd ed.), 1985 (3rd ed.); *Sociedades fictícias e unipessoais*, 1948; *Estudos Jurídicos*, I, 1968; *Estudos Jurídicos*, II (Direito Civil e Comercial, Direito Criminal), 1969; *Estudos Jurídicos*, III (Direito Internacional Privado), 1970; *Lições de Direito Comercial* (ciel.), I (latest version: 1973), II (latest version: 1968), III (latest version: 1975); *Lições de Direito Internacional Privado* (ciel.) (latest version: 1973-1975); *Les problèmes de codification en droit international privé*, 1975; *Direito Internacional Privado - Alguns problemas*, 1981; *Discursos e entrevistas*, 1982; *Estudos vários de Direito*. "Acta Universitatis Conimbrigensis", 1982; *Temas de Direito Comercial e de Direito Internacional Privado*, 1989.

Author of a comprehensive bibliography comprising monographs, short treatises, review articles, notes on judicial decisions and speeches, totalling over 100 titles.

Judge *ad hoc* Sir Ninian STEPHEN

(Judge *ad hoc* in the case concerning *East Timor (Portugal v. Australia)*)

Born in the United Kingdom on 15 June 1923.

Educated in the United Kingdom, Switzerland and Australia. War Service 1941-1946, Australian Army.

Honorary doctorates (Melbourne, Sydney and Griffith Universities). Honorary Master, Gray's Inn.

Admitted to practise in Victoria as a barrister and solicitor in 1949 after studies at University of Melbourne; LL.B. (Melbourne), 1950.

Practised as a solicitor, 1949-1952, and from 1952 as a barrister and member of the Victorian Bar; appointed Queen's Counsel, 1966. Appointed to the Victorian Supreme Court bench in 1972 and in March 1972 appointed a justice of the High Court of Australia. Sworn of the Privy Council of the United Kingdom in 1979 and sat as a member of its Judicial Committee. Retired from the High Court of Australia in 1982 when senior puisne justice to take up appointment as Governor-General of Australia, which office held until 1989.

Appointed Australia's first Special Ambassador for the Environment 1989-; Chairman of various Australian governmental bodies including the Constitutional Centenary Foundation, the Antarctic Foundation, the National Library of Australia, the Australian Banking Industry Ombudsman Council and the National Local Government Environment Advisory Group. Appointed in 1992 by the United Kingdom and Republic of Ireland Governments as Chairman of Strand Two of the Talks in Northern Ireland.

Honours and awards: A.K., G.C.M.G., G.C.V.O., K.B.E., P.C.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." Private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) States Members of the United Nations

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 1992 the following 179 States were Members of the United Nations:

<i>State</i>	<i>Date of Admission</i>
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

<i>State</i>	<i>Date of Admission</i>
Belarus	Original Member ¹
Belgium	" "
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	" "
Chile	Original Member
China	" "
Colombia	" "
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czechoslovakia	Original Member
Democratic People's Republic of Korea	17 September 1991
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	" "
Egypt	" "
El Salvador	" "
Equatorial Guinea	12 November 1968
Estonia	17 September 1991
Ethiopia	Original Member
Federated States of Micronesia	17 September 1991
Fiji	13 October 1970
Finland	14 December 1955

¹ On 19 September 1991, Byelorussia informed the United Nations that it had changed its name to Belarus.

<i>State</i>	<i>Date of Admission</i>
France	Original Member
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	" "
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	" "
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991

<i>State</i>	<i>Date of Admission</i>
Mauritania	27 October 1961
Mauritius	24 April 1968
Mexico	Original Member
Moldova	2 March 1992
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	" "
Nicaragua	" "
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	" "
Philippines	" "
Poland	" "
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Romania	14 December 1955
Russian Federation	Original Member ¹
Rwanda	18 September 1962
St. Kitts and Nevis	23 September 1983
St. Lucia	18 September 1979
St. Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Seychelles	21 September 1976
Sierra Leone	27 September 1961

¹ The Union of Soviet Socialist Republics was an original Member of the United Nations from 24 October 1945. In a letter dated 24 December 1991, Boris Yeltsin, the President of the Russian Federation, informed the Secretary-General that the membership of the Soviet Union in the Security Council and all other United Nations organs was being continued by the Russian Federation with the support of the 11 member countries of the Commonwealth of Independent States.

<i>State</i>	<i>Date of Admission</i>
Singapore	21 September 1965
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
Togo	20 September 1960
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Yugoslavia	Original Member
Zaire	20 September 1960
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*¹

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

¹ The full text of the resolutions referred to in this section is given on pages 175-183 of *I.C.J. Acts and Documents No. 5*.

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

- “(a) Acceptance of the provisions of the Statute of the International Court of Justice;
- (b) Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
- (c) An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government.”¹

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

“1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.

2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.

3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19).”

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

“(a) A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may

¹ See below, Chap. VIII, p. 249.

participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;

(b) Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

The following States not members of the United Nations are at present parties to the Statute¹:

<i>State</i>	<i>Resolution of the General Assembly</i>	<i>Deposit of the instrument of acceptance</i>
Nauru	42/21, 18 November 1987	29 January 1988
Switzerland	91 (I), 11 December 1946	28 July 1948

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute². This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

"The Security Council

In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,

Resolves that:

1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration

¹ Before becoming Members of the United Nations, Japan, Liechtenstein and San Marino were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950 and 18 February 1954 respectively.

² See also Rules, Art. 26, para. 1 (c), and Art. 41, and below, Chap. VIII, p. 249.

by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;

2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;

3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;

4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;

5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. Basis of the Court's Jurisdiction

The jurisdiction of the Court in contentious proceedings is based on the

consent of the States to which it is open¹. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose². The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 111-128). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV

¹ In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America* (United States of America v. Hungary) (United States of America v. USSR); *Aerial Incident of 10 March 1953* (United States of America v. Czechoslovakia); *Antarctica* (United Kingdom v. Argentina) (United Kingdom v. Chile); *Aerial Incident of 7 October 1952* (United States of America v. USSR); *Aerial Incident of 4 September 1954* (United States of America v. USSR); *Aerial Incident of 7 November 1954* (United States of America v. USSR).

² The following eleven cases were submitted to the Court by means of special agreements: *Asylum* (Colombia/Peru); *Minquiers and Ecrehos* (France/United Kingdom); *Sovereignty over Certain Frontier Land* (Belgium/Netherlands); *North Sea Continental Shelf* (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands); *Continental Shelf* (Tunisia/Libyan Arab Jamahiriya); *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Canada/United States of America) (case referred to a Chamber); *Continental Shelf* (Libyan Arab Jamahiriya/Malta); *Frontier Dispute* (Burkina Faso/Republic of Mali) (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute* (El Salvador/Honduras) (case referred to a Chamber); *Territorial Dispute* (Libyan Arab Jamahiriya/Chad). In the *Corfu Channel* (United Kingdom v. Albania) case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906* (Honduras v. Nicaragua) was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

(pp. 67-72) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court (P.C.I.J., Series D, No. 6, fourth edition)* and subsequently in Chapter X of its *Annual Reports (P.C.I.J., Series E, Nos. 8-16)* the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

"2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of

Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 73-111).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections¹.

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)².

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a deci-

¹ Preliminary objections were raised in the following 21 cases: *Corfu Channel (United Kingdom v. Albania)*; *Rights of Nationals of the United States of America in Morocco (France v. United States of America)*; *Ambatielos (Greece v. United Kingdom)*; *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Nottebohm (Liechtenstein v. Guatemala)*; *Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)*; *Certain Norwegian Loans (France v. Norway)*; *Right of Passage over Indian Territory (Portugal v. India)*; *Interhandel (Switzerland v. United States of America)*; *Aerial Incident of 27 July 1955 (Israel v. Bulgaria)*; *United States of America v. Bulgaria*; *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*; *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)*; *Temple of Preah Vihear (Cambodia v. Thailand)*; *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*; *Northern Cameroons (Cameroon v. United Kingdom)*; *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)*; *Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)*; *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*; *Certain Phosphate Lands in Nauru (Nauru v. Australia)*. Questions of jurisdiction or admissibility have also been raised in the following 12 cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)*; *Fisheries Jurisdiction (United Kingdom v. Iceland)*; *Federal Republic of Germany v. Iceland*; *Nuclear Tests (Australia v. France; New Zealand v. France)*; *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Aegean Sea Continental Shelf (Greece v. Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*; *East Timor (Portugal v. Australia)*.

² An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case. Cf. note 1, p. 65, below.

sive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)¹.

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

"Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions²:

United Nations:

General Assembly³,
Security Council⁴,

¹ An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

² The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

³ The General Assembly has requested 13 advisory opinions of the Court in the following 12 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter)*; *Reparation for Injuries Suffered in the Service of the United Nations*; *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase*; *id.*, *Second Phase*; *Competence of the General Assembly for the Admission of a State to the United Nations*; *International Status of South West Africa*; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*; *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*; *Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa*; *Admissibility of Hearings of Petitioners by the Committee on South West Africa*; *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*; *Western Sahara: Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

⁴ The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*.

Economic and Social Council¹,
 Trusteeship Council,
 Interim Committee of the General Assembly,
 Committee on Applications for Review of Administrative Tribunal
 Judgements²;

International Labour Organisation;
 Food and Agriculture Organization of the United Nations;
 United Nations Educational, Scientific and Cultural Organization³;
 World Health Organization⁴;
 International Bank for Reconstruction and Development;
 International Finance Corporation;
 International Development Association;
 International Monetary Fund;
 International Civil Aviation Organization;
 International Telecommunication Union;
 International Fund for Agricultural Development;
 World Meteorological Organization;
 International Maritime Organization⁵;
 World Intellectual Property Organization;
 United Nations Industrial Development Organization;
 International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 67-72) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

¹ The Economic and Social Council requested an advisory opinion of the Court in the case concerning the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*.

² The Committee on Applications for Review of Administrative Tribunal Judgements requested an advisory opinion in the following three cases: *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal*; *Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal*; *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

³ The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco*.

⁴ The World Health Assembly requested an advisory opinion of the Court concerning *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*.

⁵ The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization*.

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION
OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments now in force governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE
UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS
WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. *United Nations*

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3¹.

Authorization to the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice: Statute of the United Nations Administrative Tribunal¹ as amended by resolution 957 (X) of the General Assembly, 8 November 1955, Article 11².

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

2. All Specialized Agencies

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on 21 Novem-

¹ The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

² Article not applicable to Judgements concerning the staff of the International Civil Aviation Organization or Inter-Governmental Maritime Consultative Organization (now International Maritime Organization), which have both, however, accepted the jurisdiction of the United Nations Administrative Tribunal.

ber 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. *International Labour Organisation*

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII¹.

4. *Food and Agriculture Organization of the United Nations*

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations; recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. *United Nations Educational, Scientific and Cultural Organization*

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

¹ The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)¹.

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X² (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

¹ See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

² Article XI before the revision of 1962.

8. *International Monetary Fund*

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. *International Civil Aviation Organization*

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. *International Telecommunication Union*

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. *World Meteorological Organization*

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. *International Maritime Organization*

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)¹.

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

¹ As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22.

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE
JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 1992, will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

The declarations of Bulgaria, Estonia and Madagascar were deposited with the Secretary-General of the United Nations during the 12 months under review, on 24 June 1992, 21 October 1991 and 2 July 1992 respectively, and were the first such declarations made by those States.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now seven such declarations.

The declarations, deposited by a total of 55 States¹, are given here in English². Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

AUSTRALIA

17 III 75.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations of which the Statute of the International Court of Justice is an integral part; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the sixth day of February, one thousand nine hundred and fifty-four³; and

Whereas Australia desires to withdraw the said declaration;

The Government of Australia hereby withdraws the said declaration and

¹ Since 1951, twelve other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

² French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

³ United Nations, *Treaty Series*, I, No. 2484, Vol. 186.

declares for and on behalf of Australia that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to withdraw this declaration.

The Government of Australia further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement.

In witness whereof, I, Edward Gough Whitlam, Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

Dated this thirteenth day of March, one thousand nine hundred and seventy-five.

(Signed) E. G. WHITLAM,

Prime Minister acting for and on
behalf of the Minister of State for
Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(Signed) JONAS,

The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(Signed) Bruno KREISKY,

The Federal Chancellor.

(Signed) Rudolf KIRCHSCHLAEGER,

The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

- (a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,
- (b) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,
- (c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,
- (d) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(Signed) H. de B. FORDE,
Minister of External Affairs.

BELGIUM¹

[Translation from the French]

17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

¹ Belgium had deposited in 1948 a declaration valid for five years (United Nations, Treaty Series, I, No. 260, Vol. 16).

This declaration is made subject to ratification¹. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(Signed) V. LAROCK,
Minister for Foreign Affairs.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

- (a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
- (b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(Signed) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian]

24 VI 1992.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria

¹ The instrument of ratification was deposited on 17 June 1958.

recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation.

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(Signed) S. GANEV,

Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French]

19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

- (1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

- (2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;
- (3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(Signed) SIM VAR.

CANADA

10 IX 85.

On behalf of the Government of Canada,

- (1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 7 April 1970¹ in conformity with paragraph 2 of Article 36 of the Statute of that Court.
- (2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:
 - (a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
 - (b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
 - (c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada.
- (3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification may be communicated to the gov-

¹ I.C.J. Yearbook 1984-1985, pp. 71-72.

ernments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 September 1985.

(Signed) Stephen LEWIS,
Ambassador and
Permanent Representative.

COLOMBIA¹

[Translation from the French]

30 X 37.

The Republic of Colombia recognizes as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36 of the Statute.

The present declaration applies only to disputes arising out of facts subsequent to 6 January 1932.

Geneva, 30 October 1937.

(Signed) J. M. YEPES,
Legal Adviser of the Permanent Delegation
of Colombia to the League of Nations.

COSTA RICA

[Translation from the Spanish]

20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO,
Minister for Foreign Affairs.

¹ An instrument of ratification was deposited on 30 October 1937. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

CYPRUS

29 IV 88.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

(a) the interpretation of any treaty –

- I. to which the Republic of Cyprus became a Party on or after 16 August 1960 or
- II. which the Republic of Cyprus recognizes as binding on it by succession;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

(a) to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus;

(b) where the declaration recognizing the compulsory jurisdiction of the International Court of Justice on behalf of any other Party to the dispute was deposited with the Secretary-General of the United Nations less than six months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Cyprus reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 19 April 1988.

(Signed) George IACOVOU,
Minister of Foreign Affairs.

DENMARK¹

[Translation from the French]

10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

¹ This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[Translation from the French]

30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification¹, I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 (b) of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its opera-

¹ The instrument of ratification was deposited on 4 February 1933.

tion"¹, the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 (b) of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,

Chairman of the Supreme Council.

FINLAND

25 VI 58.

[Translation from the French]

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period.

¹ United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

New York, 25 June 1958.

(Signed) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

- (a) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
- (b) disputes with any country in the Commonwealth;
- (c) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(Signed) A. B. N'JIE,
Minister of State for External Affairs.

GUINEA-BISSAU

[Translation from the French]

7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(Signed) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French]

4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish]

6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960¹ as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:
 - (a) the interpretation of a treaty;
 - (b) any question of international law;
 - (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
 - (d) the nature or extent of the reparation to be made for the breach of an international obligation.
2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:
 - (a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
 - (b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;

¹ I.C.J. Yearbook 1984-1985, pp. 78-79.

- (c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
 - (d) disputes referring to:
 - (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;
 - (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
 - (iii) the airspace over the territories, waters and zones referred to in this subparagraph.
3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

- (1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
- (2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;

- (3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;
- (4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;
- (5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;
- (6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;
- (7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;
- (8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;
- (9) disputes with non-sovereign States or territories;
- (10) disputes with India concerning or relating to:
 - (a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;
 - (b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;
 - (c) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;
 - (d) the airspace superjacent to its land and maritime territory; and
 - (e) the determination and delimitation of its maritime boundaries.
- (11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959¹.

New Delhi, 15 September 1974.

(Signed) Swaran SINGH,
Minister for External Affairs.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(Signed) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

¹ United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

- (1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
- (2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;
- (3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;
- (4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(Signed) Joseph MURUMBI,
Minister for External Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

- (a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;

- (5) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification¹ and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. DENNIS,
Secretary of State.

LIECHTENSTEIN

[Translation from the French]

29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute² and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,

(Signed) A. FRICK,
The Head of Government.

¹ The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

² Liechtenstein became a party to the Statute of the Court on 29 March 1950.

LUXEMBOURG¹

[Translation from the French]

15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(Signed) BECH.

MADAGASCAR

[Translation from the French]

2 VII 1992.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification

¹ The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning –

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided that this declaration shall not apply to –

- (i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
- (ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
- (iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(Signed) H. KAMUZU BANDA,
President and
Minister for External Affairs.

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;
- (v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;
- (vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;
- (vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
- (viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

¹ By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(Signed) G. FELICE,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

- (1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
- (2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

- (a) its territory, including the territorial sea, and the status thereof,
- (b) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
- (c) the determination or delimitation of any of the above,
- (d) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(Signed) Alex SCEBERAS TRIGON,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special

convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;
- (v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;
- (vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
- (vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(Signed) S. RAMGOOLAM,
Prime Minister
and Minister for
External Affairs.

MEXICO

[Translation from the Spanish]

28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(Signed) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

29 I 88.

On behalf of the Government of the Republic of Nauru I declare that it accepts as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulate that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

I further declare that the present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations.

In witness whereof under my hand and the Common Seal of the Republic of Nauru, dated this thirtieth day of the month of December, one thousand nine hundred and eighty-seven.

(Signed) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

[Translation from the French]

1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946¹ is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(Signed) E. L. C. SCHIFF,

Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

- (I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940² under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.
- (II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

¹ United Nations, *Treaty Series*, I, No. 2, Vol. 1.

² *I.C.J. Yearbook 1976-1977*, pp. 69 f.

- (1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute: or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;
- (3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(Signed) M. J. C. TEMPLETON,
Permanent Representative of
New Zealand to the United Nations.

NICARAGUA¹

[Translation from the French]

24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

NIGERIA

3 IX 65.

Whereas under Article 93 of the United Nations Charter all Member States are *ipso facto* parties to the Statute of the International Court of Justice;

¹ See the Court's Judgment of 26 November 1984 (*I.C.J. Reports 1984*, p. 392).

And whereas the Government of the Federal Republic of Nigeria has decided to accept the compulsory jurisdiction of the International Court of Justice and it is necessary to make a declaration in terms of Article 36 (2) of the Statute of the Court;

Now therefore, I, Nuhu Bamali, Minister of State for External Affairs, hereby declare that the Government of the Federal Republic of Nigeria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court.

Done at Lagos, this 14th day of August, one thousand nine hundred and sixty-five.

(Signed) Nuhu BAMALI,
Minister of State for External Affairs.

NORWAY¹

2 IV 76.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the Royal Norwegian Government, having regard to Article 95 of the Charter of the United Nations, reserves the right at any time to amend the scope of this declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 2 April 1976.

(Signed) Ole ÅLGARD,
Permanent Representative of
Norway to the United Nations.

¹ This declaration replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

PAKISTAN¹

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

- (a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
- (b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
- (c) disputes arising under a multilateral treaty unless
 - (i) all parties to the treaty affected by the decision are also parties to the case before the Court, or
 - (ii) the Government of Pakistan specially agree to jurisdiction; and provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

¹ This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

PANAMA¹

[Translation from the French]

25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

PHILIPPINES²

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute –

- (a) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or
- (b) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or
- (c) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

¹ An instrument of ratification was deposited on 14 June 1929. Cf. the footnote to Colombia, p. 79, above.

² This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

- (d) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or
- (e) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines –
 - (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or
 - (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(Signed) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 IX 90.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I hereby declare, on behalf of the Government of the Republic of Poland, that the Republic of Poland recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

- (a) disputes prior to the date of this declaration or disputes arisen out of facts or situations prior to the same date;
- (b) disputes with regard to the territory or State boundaries;
- (c) disputes with regard to pollution of the environment unless the jurisdiction of the International Court of Justice results from the treaty obligations of the Republic of Poland;
- (d) disputes with regard to foreign liabilities or debts;
- (e) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than 12 months prior to the filing of the application bringing the dispute before the Court;

- (f) disputes in respect whereof parties have agreed, or shall agree, to have recourse to some other method of peaceful settlement;
- (g) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the State.

This declaration shall be valid for a period of five years and be automatically prolonged thereafter for further periods of one year if not denounced by notification addressed to the Secretary-General of the United Nations taking effect after six months from the moment of such notification.

The Government of the Republic of Poland also reserves its right to add, by means of a notification addressed to the Secretary-General of the United Nations and taking effect after six months from the moment of such notification, new reservations or supplements, or to amend or withdraw any of the foregoing reservations.

Warsaw, 21 September 1990.

(Signed) Krzysztof SKUBISZEWSKI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55.

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

- (1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;
- (2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;
- (3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(Signed) L. ESTEVES FERNANDES.

SENEGAL¹

[Translation from the French]

2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- Disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- Disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(Signed) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of

¹ This declaration replaced that of 3 May 1985 (I.C.J. Yearbook 1984-1985, p. 93).

the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi Issa,
Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish]

29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

- (a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;
- (b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;
- (c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;
- (d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(Signed) FRANCISCO FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2158.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

- (a) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
- (b) any question of international law;
- (c) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

- (i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;
- (iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

- (A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;
- (B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

- (a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
- (b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(Signed) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN¹

[Translation from the French]

6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(Signed) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

¹ This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

SWITZERLAND

[Translation from the French]

28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute¹ and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(Signed) CELIO,

The President of the Confederation.

(Signed) LEIMGRUBER,

The Chancellor of the Confederation.

TOGO

[Translation from the French]

25 X 1979.

The Togolese Republic,
Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the

¹ Switzerland became a party to the Statute of the Court on 28 July 1948.

international legal order based on the principles set forth in the Charter of the United Nations,

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(Signed) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(Signed) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND¹

11 69.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to declare on behalf of the Government of the United Kingdom of Great Britain and Northern Ire-

¹ This declaration replaced that of 27 November 1963 (United Nations, *Treaty Series*, I, No. 6995, Vol. 482), notice of the withdrawal and termination of which was given by letter of 1 January 1969, received by the Secretary-General of the United Nations on that date.

land that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 24 October 1945, with regard to situations or facts subsequent to the same date, other than:

- (i) any dispute which the United Kingdom
 - (a) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or
 - (b) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;
- (ii) disputes with the government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before 1 January 1969;
- (iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 1 January 1969.

(Signed) L. C. GLASS.

URUGUAY¹

[Translation from the French]

Prior to 28 I 21².

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(Signed) B. FERNANDEZ Y MEDINA.

¹ An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Colombia, p. 79, above.

² The date on which this declaration (undated) was first published in a League of Nations document.

ZAIRE

[Translation from the French]

8 II 89.

... in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(Signed) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. Such clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada/France	II: 545 Vol. 253
1939				
17 Dec.	Bogotá	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia/ Venezuela	II: 896
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil/Venezuela	II: 195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II: 252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II: 502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg/ Belgium/France	I: 402 Vol. 27
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China ¹ / United States	I: 359 Vol. 25
11 Dec. ²	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I: 186 Vol. 12
11 Dec. ²	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I: 186 Vol. 12
11 Dec. ²	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I: 186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China ¹ /Philippines	I: 175 Vol. 11

¹ All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

² The date and place given here are those of the signature of the amending protocol.

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1947 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I: 674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/ Burma	I: 904 Vol. 70
12 Nov. ¹	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I: 710 Vol. 46
12 Nov. ¹	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I: 772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I: 2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I: 1040 Vol. 79
30 Apr.	Bogotá	American treaty on pacific settlement	Multilateral	I: 449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I: 543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I: 423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I: 314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I: 302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I: 338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I: 323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I: 315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I: 342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I: 309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I: 317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I: 316 Vol. 20

¹ See note 2, p. 112.

1948 (<i>cont.</i>)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/ China ¹	I: 273 Vol. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/ Luxembourg	I: 350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/ Sweden	I: 343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/ Turkey	I: 351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/ United Kingdom	I: 339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/ Portugal	I: 442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I: 1179 Vol. 87
15/29 Nov.	Washington	<i>cf.</i> 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I: 1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I: 428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I: 912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/ Philippines	I: 1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	I: 22048
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I: 2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	I: 782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	I: 1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I: 1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/ Lebanon	I: 1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	I: 934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	I: 3596 Vol. 254

¹ See note 1, p. 112.

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1950	Place	Title and Clause	Contracting Parties	Treaty Series
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I: 789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/ Ireland	I: 2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/ Mexico	I: 1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I: 2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I: 342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I: 1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I: 1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/ Canada	I: 1002 Vol. 77
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I: 3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/ Mexico	I: 2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom/ Norway	I: 1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I: 2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/ Norway	I: 4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I: 2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I: 1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I: 3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I: 2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/ United States	I: 3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/ United States	I: 2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/ Ethiopia	I: 2785 Vol. 206

1951 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I: 1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands/ Australia	I: 1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Denmark	I: 6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France/ United Kingdom	I: 4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden/ United Kingdom	I: 2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States/Israel	I: 226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia/Egypt	I: 2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India/Philippines	I: 2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan/ Netherlands	I: 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia/Pakistan	I: 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I: 2937 Vol. 216
1953				
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I: 2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I: 6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Japan	I: 2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece/ United Kingdom	I: 2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand/ Philippines	I: 2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I: 6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I: 2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands/Ceylon	I: 2608 Vol. 193

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1953 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland/Denmark	I: 2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain/United States	I: 2802 Vol. 207
19 Oct.	Venice	Constitution of the Inter-governmental Committee for European Migration (Art. 30)	Multilateral	I: 2807 Vol. 207
7 Dec. ¹	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I: 2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium/Lebanon	I: 2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden/France	I: 3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand/Indonesia	I: 2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom/ Mexico	I: 4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I: 8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I: 4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I: 5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I: 5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I: 10416 Vol. 724
23 Oct. ²	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I: 304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/ Fed. Rep. of Germany	I: 3943 Vol. 273

¹ The date and the place given here are those at which the amending protocol was opened for signature.

² The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

1954 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma/Japan	I: 3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy/Brazil	I: 4146 Vol. 284
1 Dec. ¹	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I: 11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/ Ecuador	I: 3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/ United Kingdom	I: 2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden/France	I: 6150 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness	France/Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States/Iran	I: 4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy/Switzerland	I: 4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I: 5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark/Lebanon	I: 3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I: 7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands/ United States	I: 4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I: 4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I: 5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I: 3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom/ Fed. Rep. of Germany	I: 4748 Vol. 330

¹ The date and place given here are those of the signature of the revised Convention.

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1956 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines/ Switzerland	I: 4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I: 3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Rep. of Korea	I: 4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece/Sweden	I: 4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I: 4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway/Japan	I: 4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt ¹	I: 3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	I: 4646 Vol. 230
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan/ Afghanistan	I: 4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I: 7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan/Indonesia	I: 4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I: 5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway/Pakistan	I: 4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden/Pakistan	I: 5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark/Pakistan	I: 4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium/Iran	I: 5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes ²	Multilateral	I: 6466 Vol. 450

¹ See Sec. II, pp. 81-82, above.

² This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

1958 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Portugal	I: 4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium/Pakistan	I: 5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria/Afghanistan	I: 9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia/Netherlands	I: 5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands/ Honduras	I: 9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India/Italy	I: 6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States/ Pakistan	I: 5816 Vol. 404
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I: 5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States/ France	I: 5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan/ Fed. Rep. of Germany	I: 6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I: 5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden/Liberia	I: 6716 Vol. 464
1960				
13 Feb. ¹	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy/Lebanon	I: 3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands/Guinea	I: 5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I: 8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium/ Switzerland	I: 5996 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands/ Fed. Rep. of Germany	I: 7404 Vol. 509

¹ The date given here is the date of signature of the amending protocol.

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1960 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands/ Fed. Rep. of Germany	I: 7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom/ Austria	I: 7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium/Jordan	I: 6959 Vol. 479
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I: 6193 Vol. 429
14 Dec. ¹	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India/Australia	I: 552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan/Japan	I: 6093 Vol. 423
1961				
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium/ United States	I: 6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium/ United Kingdom	I: 7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute	Iceland/ United Kingdom	I: 5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I: 7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States/ Republic of Viet Nam	I: 6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I: 7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom/ Spain	I: 8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I: 6729 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland	Iceland/ Fed. Rep. of Germany	I: 5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I: 11304 Vol. 794

¹ The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I: 6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I: 14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I: 8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I: 7247 Vol. 496
23 Nov. ¹	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I: 1613 Vol. 418
23 Nov. ¹	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I: 1615 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States/ Luxembourg	I: 6868 Vol. 474
19 Mar.	Evian	<i>cf.</i> 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I: 6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/ Denmark	I: 8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I: 6739 Vol. 466
3 July ²	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I: 7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom/ Japan	I: 6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I: 7525 Vol. 521

¹ The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

² The date and the places given here are those of the exchange of letters.

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1963	Place	Title and Clause	Contracting Parties	Treaty Series
8 Jan.	Seoul	Consular convention (Art. 16)	United States/ Republic of Korea	I: 7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relations concerning the compulsory settlement of disputes	Multilateral	I: 8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands/ Paraguay	I: 8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I: 10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I: 8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I: 11473 Vol. 805
3 Dec. ¹	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I: 1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I: 7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B, ii)	Pakistan/Lebanon	I: 8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/ Japan	I: 8179 Vol. 561
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India/Lebanon	I: 11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I: 21114
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I: 8359 Vol. 575

¹ The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1965 (cont.)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I: 8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for con- trolling the desert locust in the Near East (Art. XVI)	Multilateral	I: 8575 Vol. 592
7 July	London	Treaty for conciliation, judi- cial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I: 8765 Vol. 605
1966				
8 Feb.	Lomé	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	I: 9677 Vol. 680
15 Feb.	Geneva	Convention on the measure- ment of inland navigation ves- sels (Art. 14)	Multilateral	I: 13899 Vol. 964
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I: 9464 Vol. 660
1967				
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I: 8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I: 9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands/ Philippines	I: 12382 Vol. 863
24 May	Kabul	Agreement relating to air ser- vices (Art. IX)	Denmark/ Afghanistan	I: 9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I: 15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the estab- lishment of tariffs for sched- uled air services (Art. 4)	Multilateral	I: 9971 Vol. 696
14 July ¹	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as re- vised (Art. 28)	Multilateral	I: 11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the inter- national convention for the unification of certain rules of law relating to bills of lad- ing, signed at Brussels on 25 August 1925 (Art. 8)	Multilateral	I: 23643

¹ The date and the place given here are those of the signature of the revised Convention.

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1968 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I: 15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I: 16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I: 10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I: 18232 Vol. 1155
25 July	Boston	International health regulations (Art. 106)	Multilateral	I: 10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium/ United States	I: 13178 Vol. 924
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I: 16545
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/ Yugoslavia	I: 13441 Vol. 943
1970				
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I: 21051
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I: 18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I: 11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft	Multilateral	I: 12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I: 14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands/ USSR	I: 12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom/ Ghana	I: 11467 Vol. 805

1971 (<i>cont.</i>)	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
24 July ¹	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I: 25986
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I: 13444 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I: 14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I: 14566 Vol. 995
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium/Turkey	I: 15142
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I: 25699
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I: 13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I: 13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I: 14604
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I: 16208
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay/Argentina	I: 21424
30 Nov.	New York	International convention on the suppression and punishment of the crime of <i>apartheid</i> (Art. XII)	Multilateral	I: 14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I: 15410 Vol. 1035

¹The date and the place given here are those of the signature of the revised Convention.

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1974	Place	Title and Clause	Contracting Parties	Treaty Series
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy/Spain	
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I: 18338
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan/ Saudi Arabia	I: 13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay/ Argentina	I: 21425
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I: 14152
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece/Italy	I: 21048
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I: 19487
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I: 19674
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan/Philippines	I: 20979
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I: 21931
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I: 20378
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I: 22301
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador/ Honduras	I: 21856
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland/Benin	I: 19804

1984	<i>Place</i>	<i>Title and Clause</i>	<i>Contracting Parties</i>	<i>Treaty Series</i>
*10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I: 24841
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I: 26164
10 Dec.	New York	International convention against <i>apartheid</i> in sports (Art. 19)	Multilateral	I: 25822
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I: 27627
1989				
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	
1991				
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
1992				
*9 May	New York	United Nations framework convention on climate change	Multilateral	
*5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. SEAT

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 254, below).

II. ADMINISTRATION

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)¹.

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President, the Vice-President and five judges who are elected annually (at present Judges Schwebel, Bedjaoui, Tarassov, Guillaume and Shahabuddeen).

In 1967 the Court established a Committee on Relations. Its present members are Judges Bedjaoui, Ni and Aguilar Mawdsley. This committee

¹ Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 146-147, below).

is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Ago, Weeramantry and Ranjeva) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Lachs, Ago, Bedjaoui, Ni, Evensen and Tarassov.

Each year, in application of Article 11 of the Staff Regulations for the Registry, which came into force in 1979, the Court elects a Judge and Alternate Judge for Staff Appeals. Judges Evensen and Bedjaoui, respectively, hold these offices at present.

2. The Registry

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24).

(a) The Registrar and the Deputy-Registrar

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). Under the Instructions: "the Registrar is responsible for all departments of the Registry. The Staff is under his control and he alone is authorized to direct the work of the Registry, of which he is the Head." He is assisted by the Deputy-Registrar and, in the event of his absence, is replaced by the Deputy-Registrar or, failing him, an official of the Registry appointed by the President (Rules, Art. 27; Instructions for the Registry, Arts. 2 and 42).

The present Registrar is Mr. Eduardo Valencia-Ospina, of Colombian nationality, who was elected on 19 February 1987. He was previously the Court's Deputy-Registrar (1984-1987) and before that had served as

the senior legal officer of the Codification Division at the Office of Legal Affairs in the United Nations Secretariat.

The Deputy-Registrar is Mr. Bernard Noble, of British nationality, previously a First Secretary of the Court, who was also elected on 19 February 1987.

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980) and S. Torres Bernárdez (1980-1986). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), and A. Pillepich (1977-1984).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service category and temporary staff, however, are appointed by the Registrar (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 1992, showing the posts they occupy with references, where appropriate, to the articles of the Instructions for the Registry in which their duties are defined.

	<i>Date of assumption of duties</i>	<i>Nationality</i>
<i>Secretaries of the Court (Art. 43)</i>		
<i>Principal Legal Secretary</i>		
H. W. A. Thirlway	1 September 1968	British
<i>First Secretaries</i>		
R. Laval	1 September 1991	Guatemalan
<i>Secretaries</i>		
A. Brouillet	13 June 1988	French
A. Th. Witteveen	15 July 1975	Dutch
In charge of information matters		
Ph. Couvreur	13 April 1982	Belgian
<i>Linguistic Staff</i>		
Mrs. J. E. Bouri	1 July 1986	British
F. Mengin	5 May 1986	French
<i>Legal Officer</i>		
J.-P. Isselé	5 April 1988	French

Special Assistants

C. D. McAuliffe	1 November 1991	Irish
P. H. F. Bekker	1 May 1992	Dutch

Information Officer

Mrs. N. Choucri El-Erian	1 March 1982	Egyptian
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Administrative Assistants

Mrs. R. Weerakoon	20 January 1986	Sri Lankan
Mrs. M. G. A. van Haasbergen	1 March 1985	French
Miss M. D. Donnelly	1 January 1985	British

Establishment (Arts. 54-66)

M. Mendella	1 April 1986	Canadian
Accountant/Establishment Officer, Head of Department		
C. Uriot	1 March 1981	Dutch
T. Komnenović	1 August 1973	Yugoslav
B. J. van Veen	1 March 1982	Dutch

Telephonists-Receptionists

Mrs. J. Koot-Jager	1 March 1978	Dutch
Mrs. E. Keijman	1 April 1978	Dutch

Messengers

I. J. van der Meer	1 June 1980	Dutch
Co-ordinator		
F. Koch	1 September 1985	Dutch
D. Driessen	1 April 1982	Dutch

Security Guards

R. Pijl	1 January 1990	Dutch
T. Ernst	1 July 1992	Swiss

Shorthand and Typewriting Department (Art. 53)

Mrs. N. Juszezak	1 January 1979	French
Head of Department		
Miss C. Rakoto	5 September 1983	Malagasy
Mrs. J. Devisme	1 January 1986	French
Mrs. C. Wainwright	1 January 1990	Australian
Mrs. F. Collins	1 January 1990	British
Mrs. D. Roodbol	1 January 1990	French
Miss V. Primas	1 January 1990	French
G. D'Oliveo	1 December 1982	Italian
M. Sow	1 August 1985	Senegalese

Judges' Secretaries

Mrs. M. de Meyier Co-ordinator	1 January 1982	French and Dutch
Mrs. R. Snoeck	10 January 1977	French and Dutch
Miss W. Ch. Deelder	1 July 1982	Dutch
Mrs. J. van Hamel	1 November 1985	British
Mrs. L. Speeleveld	1 January 1986	Belgian
Miss H. H. Muyen	1 June 1987	Dutch
Miss L. E. Brown	1 January 1990	British
Mrs. M. Cleary-Cogan	1 January 1990	British
Miss A. Moore	1 January 1990	British
Miss M. Sullivan	1 January 1990	British
Mrs. D. Bloemendaal	1 April 1990	British

Archives (Arts. 44-52)

Miss M. S. Lycett Head of Department	1 July 1980	British
S. R. S. Bedi	16 September 1985	Indian
D. van Rooy	16 April 1975	Dutch
S. Cantarella	9 April 1981	Italian
J. Pronk	1 January 1981	Dutch

Printing Department (Arts. 67-69)

P. Vio Head of Department	1 June 1974	Italian
S. H. Herd	1 August 1987	British

Documents Department (Arts. 70-73)

A. C. G. M. Eyffinger Librarian, Head of Department	1 February 1988	Dutch
Mrs. R. S. B. van Megen	13 August 1973	Dutch
M. Schiethart	1 January 1981	Dutch
G. Vooijs	1 January 1981	Dutch

(c) Staff Regulations for the Registry

Article 28, paragraph 4, of the Rules of Court states:

"The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164).

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. *Relations with the Public*

(a) *Correspondence*

Article 26, paragraph 1 (a), of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telegraphic address: *INTERCOURT THE HAGUE*; telex: 32323; Telefax 364 99 28). It should be written in either English or French¹.

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (070) 392 44 41.

¹ It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 (n)).

(c) *Information*

Article 26, paragraph 1 (k) and (m), of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court¹.

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués:

Background Notes, of which four are available:

II and II bis. *Synopsis of cases referred to the International Court of Justice (1947-1969 and 1969-1976)*;

IV. *Note by the Registry indicating the Rules of Court amended on 10 May 1972*;

V. *Note by the Registry on the Revised Rules of Court (1978)*;

VI. *Collected unofficial summaries of decisions concerning the law of the sea (1946-1986)*.

Also obtainable, from the Registry or United Nations Information Centres, are:

— a popular handbook on *The International Court of Justice*, published in Arabic, Chinese, English, French, Russian, Spanish and German

¹ These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 220-222.

editions, which is in particular distributed in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;

- a booklet on the Court published by the United Nations Department of Public Information in English, French, Spanish and Dutch editions;
- unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received 91 groups including scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others, amounting to some 3,000 persons in all.

Information on the assistance given members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 140, 141, 145).

III. PRACTICE IN REGARD TO PROCEDURE¹

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel

¹ For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; and pp. 198-204 in Chapter VI, below.

for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 (f)-(i), and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 (b), and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969 and 1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 62-63, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a communiqué informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14).

The party's submissions are set out in each pleading (Rules, Art. 49).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19×26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with. If the composition is entrusted to one of the printers who work for the Court, so that it is not necessary to re-compose the texts when they come to be used in the Court's series *Pleadings, Oral Arguments, Documents* (see (e) below), the Court will at that stage reimburse half the cost, at the normal rate, of the composition of the pleading itself and of such annexes as are to be reproduced in the

Pleadings series (but excluding any text in a language other than English or French or entirely reproduced from another printed pleading).

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 (g)).

The Registrar arranges for the publication of communiqués giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see (e) below).

(c) Oral proceedings

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*¹ (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20).

The Court settles the order in which the parties are heard, the number

¹ In the *Corfu Channel* (United Kingdom v. Albania) case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear* (Cambodia v. Thailand) case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa* (Ethiopia v. South Africa; Liberia v. South Africa) cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf* (Tunisia/Libyan Arab Jamahiriya), it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Canada/United States of America) case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf* (Libyan Arab Jamahiriya/Malta), the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States of America) it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Eletronica Sicula S.p.A. (ELSI)* (United States of America v. Italy) heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute* (El Salvador/Honduras: Nicaragua intervening) the Court heard a witness presented by one of the Parties.

of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court; such documents must be filed in the same number of copies as the pleadings (see *(b)* above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues communiqués giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Admission cards are issued to members of the diplomatic corps and to representatives of the press and also to any person who makes application either in writing or in person at the Peace Palace on the occasion of a hearing. Photographs may be taken before the opening of hearings. Filming for cinema or television purposes is, however, subject to special authorization. There is a Press Room within the Peace Palace, and also a Post Office where a number of telephones are available for the use of journalists. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see *(e)* below).

(d) Deliberations

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the

Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(c) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see (c) above). However, where photography or filming is intended for use in newsreels or television news, it may be authorized not only at the beginning of a sitting but also when the operative terms of the judgment are read out.

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed; one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 220-221, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions

for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 220, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

3. Occasional Rules in Contentious Cases

(a) Provisional measures

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)¹.

(b) Joinder of proceedings

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order².

(c) Preliminary objections

Preliminary objections (see Chap. III, p. 64, above) must be filed within the time-limit fixed for the filing of the Counter-Memorial (Rules, Art. 79). They suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. Oral proceedings on the objections ensue, the party which raised them being called upon to speak

¹ Such provisional measures have been requested in the following 16 cases: *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Interhandel (Switzerland v. United States of America)*; *Fisheries Jurisdiction (United Kingdom v. Iceland)* (*Federal Republic of Germany v. Iceland*); *Nuclear Tests (Australia v. France)* (*New Zealand v. France*); *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Aegean Sea Continental Shelf (Greece v. Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua v. Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*; *Passage through the Great Belt (Finland v. Denmark)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* (*Libyan Arab Jamahiriya v. United States of America*).

² Proceedings were joined in the following cases: *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*.

first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character¹. The Court may also give effect to an agreement between the parties that objections should be heard and determined within the framework of the merits².

(d) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)³. If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have

¹ The Court gave its decision on the preliminary objections raised in the following 15 cases: *Corfu Channel* (United Kingdom v. Albania); *Ambatielos* (Greece v. United Kingdom); *Anglo-Iranian Oil Co.* (United Kingdom v. Iran); *Nottebohm* (Liechtenstein v. Guatemala); *Monetary Gold Removed from Rome in 1943* (Italy v. France, United Kingdom and United States of America); *Certain Norwegian Loans* (France v. Norway); *Right of Passage over Indian Territory* (Portugal v. India); *Interhandel* (Switzerland v. United States of America); *Aerial Incident of 27 July 1955* (Israel v. Bulgaria); *Temple of Preah Vihear* (Cambodia v. Thailand); *South West Africa* (Ethiopia v. South Africa; Liberia v. South Africa); *Northern Cameroons* (Cameroon v. United Kingdom); *Barcelona Traction, Light and Power Company, Limited* (New Application: 1962) (Belgium v. Spain); *Elettronica Sicula S.p.A. (ELSI)* (United States of America v. Italy); *Certain Phosphate Lands in Nauru* (Nauru v. Australia). Preliminary objections on which the Court will yet have to give a decision have also been raised in a pending case: *Aerial Incident of 3 July 1988* (Islamic Republic of Iran v. United States of America). In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn (*Rights of Nationals of the United States of America in Morocco* (France v. United States of America)) or as the result of a discontinuance (*Aerial Incident of 27 July 1955* (United States of America v. Bulgaria); *Barcelona Traction, Light and Power Company, Limited* (first application) (Belgium v. Spain); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient* (France v. Lebanon)). The Court also dealt with questions of jurisdiction or admissibility in the following nine cases: *Appeal Relating to the Jurisdiction of the ICAO Council* (India v. Pakistan); *Fisheries Jurisdiction* (United Kingdom v. Iceland) (Federal Republic of Germany v. Iceland); *Nuclear Tests* (Australia v. France) (New Zealand v. France); *Aegean Sea Continental Shelf* (Greece v. Turkey); *United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran); *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States of America); *Border and Transborder Armed Actions* (Nicaragua v. Honduras). The Court has still to decide questions of jurisdiction and admissibility in the pending cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (Qatar v. Bahrain) and *East Timor* (Portugal v. Australia).

² This was done in *Elettronica Sicula S.p.A. (ELSI)* (United States of America v. Italy). Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans* (France v. Norway) and by decision of the Court in the following two cases: *Right of Passage over Indian Territory* (Portugal v. India); *Barcelona Traction, Light and Power Company, Limited* (New Application: 1962) (Belgium v. Spain).

³ Permission to intervene was applied for in the *Nuclear Tests* cases (Australia v. France) (New Zealand v. France), in the cases concerning the *Continental Shelf* (Tunisia/Libyan Arab Jamahiriya) and the *Continental Shelf* (Libyan Arab Jamahiriya/Malta) and in the case concerning the *Land, Island and Maritime Frontier Dispute* (El Salvador/Honduras).

the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)¹.

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(e) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)².

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)³.

(f) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 64-65).

¹ A third State intervened in the *Haya de la Torre (Colombia v. Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*.

² A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom v. Albania)*, Assessment of Amount of Compensation; *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*, Interim Protection; *Nottebohm (Liechtenstein v. Guatemala)*, Preliminary Objection; *Fisheries Jurisdiction (United Kingdom v. Iceland)* (Federal Republic of Germany v. Iceland), Interim Protection, Jurisdiction of the Court and Merits; *Nuclear Tests (Australia v. France)* (New Zealand v. France), Interim Protection and Second Phase; *Trial of Pakistani Prisoners of War (Pakistan v. India)*, Interim Protection; *Aegean Sea Continental Shelf (Greece v. Turkey)*, Interim Protection and Jurisdiction of the Court; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*, Provisional Measures and Merits; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits.

³ The following eight cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France v. Egypt)*; *Electricité de Beyrouth Company (France v. Lebanon)*; *Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)* (United Kingdom v. Bulgaria); *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)*; *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)^{1,2}.

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(g) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)³.

4. Procedure in Advisory Cases

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 12-15, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 65-66, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

¹ The Court gave a decision on a request for interpretation of its Judgment in the *Asylum (Colombia/Peru)* case. See also pp. 64, note 2, and 65, note 1, above.

² The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

³ The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)* in the case of that name.

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)¹.

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

IV. OCCASIONAL FUNCTIONS ENTRUSTED TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty generally consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

¹ The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 (a) of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 1991-1992

During the period under review, the full Court met on 31 October, from 11 to 15, 18 to 22, and on 25 November 1991, on 24, from 26 to 28 and on 30 and 31 March, from 2 to 4 and on 8, 9, 14, 25 and 26 April, on 27 and 28 May, and on 19 and 26 June 1992, holding 17 public sittings and 25 private meetings.

The Court was seised of the two contentious cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*. A request for the indication of provisional measures was made in each of the two cases. Preliminary objections were filed in the case concerning *East Timor (Portugal v. Australia)*. In the cases concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* and *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, the proceedings were discontinued at Nicaragua's request.

The Court delivered a Judgment on the merits in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)* and a Judgment on the preliminary objections filed by Australia in the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)*. It made an Order on the Libyan request for the indication of provisional measures in each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*. The Court also made an Order in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* removing that case from the list. It further made Orders concerning time-limits in the cases concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*, *East Timor (Portugal v. Australia)*, *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)* and in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*.

The President of the Court made an Order in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, removing that case from the list. He further made Orders concerning time-limits in the cases concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*, *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, the *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)* and *Certain Phosphate Lands in Nauru (Nauru v. Australia)*.

The Chamber constituted to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* held 27 private meetings.

In addition, the Court dealt with various administrative and budgetary matters.

I. CASES BEFORE THE COURT

A. CONTENTIOUS CASES BEFORE THE FULL COURT

1. *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*

By its Judgment of 27 June 1986 on the merits of this case (*I.C.J. Reports 1986*, p. 14), the Court found, *inter alia*, that the United States of America was under an obligation to make reparation to the Republic of Nicaragua for all injury caused to Nicaragua by certain breaches of obligations under international law committed by the United States. It further decided "that the form and amount of such reparation, failing agreement between the Parties, [would] be settled by the Court", reserving for that purpose the subsequent procedure.

In a letter of 7 September 1987, the Agent of Nicaragua stated that no agreement had been reached between the Parties as to the form and amount of the reparation and that Nicaragua requested the Court to make the necessary orders for the further conduct of the case.

By a letter dated 13 November 1987, the Deputy-Agent of the United States informed the Registrar that the United States remained of the view that the Court was without jurisdiction to entertain the dispute and that the Nicaraguan Application was inadmissible. Accordingly, the United States would not be represented at a meeting, to be held in accordance with Article 31 of the Rules of Court, for the purpose of ascertaining the views of the Parties on the procedure to be followed.

Having ascertained the views of the Government of Nicaragua and afforded the Government of the United States of America an opportunity to state its views, the Court, by an Order of 18 November 1987 (*I.C.J. Reports 1987*, p. 188), fixed 29 March 1988 as the time-limit for a Memorial of the Republic of Nicaragua and 29 July 1988 as the time-limit for a Counter-Memorial of the United States of America.

The Memorial of the Republic of Nicaragua was duly filed on

29 March 1988. The United States of America did not file a Counter-Memorial within the prescribed time-limit.

At a meeting on 22 June 1990 called by the President of the Court to ascertain the views of Nicaragua and the United States of America on the date for opening of the oral proceedings on compensation in this case, the Agent of Nicaragua informed the President of the position of his Government, already set out in a letter dated 20 June 1990 from the Agent to the Registrar of the Court. He indicated that the new Government of Nicaragua was carefully studying the different matters it had pending before the Court; that the instant case was very complex and that, added to the many difficult tasks facing the Government, special circumstances would make it extremely inconvenient for it to take a decision on what procedure should be followed during the coming months. The President stated that he would inform the Court of the position of the Government of Nicaragua and in the meantime take no action to fix a date for hearings.

By a letter dated 12 September 1991, the Agent of Nicaragua informed the Court that his Government had decided to renounce all further right of action based on the case and requested that an Order be made officially recording the discontinuance of the proceedings and directing the removal of the case from the list.

As required by Article 89 of the Rules of Court, the President of the Court then fixed 25 September 1991 as the time-limit within which the United States of America might state whether it opposed the discontinuance. On that date a letter welcoming the discontinuance was received from the Legal Adviser of the United States Department of State, writing on behalf of his Government.

Consequently, on 26 September 1991, the President of the Court made an Order recording the discontinuance of the proceedings and directing the removal of the case from the Court's list (*I.C.J. Reports 1991*, p. 47).

2. Border and Transborder Armed Actions (Nicaragua v. Honduras)

On 28 July 1986 the Government of Nicaragua filed in the Registry of the Court an Application instituting proceedings against the Republic of Honduras. The Application included allegations that *contras* stationed in Honduras were engaged in border and transborder armed actions on Nicaraguan territory, that the armed forces of Honduras were giving assistance to the *contras*, that the armed forces of Honduras were participating directly in attacks against Nicaragua, and that the Government of Honduras had issued threats of force against Nicaragua. It requested the Court to adjudge and declare:

- “(a) that the acts and omissions of Honduras in the material period constitute breaches of the various obligations of customary international law and the treaties specified in the body of this

Application for which the Republic of Honduras bears legal responsibility;

- (b) that Honduras is under a duty immediately to cease and to refrain from all such acts as may constitute breaches of the foregoing legal obligations;
- (c) that Honduras is under an obligation to make reparation to the Republic of Nicaragua for all injury caused to Nicaragua by the breaches of obligations under the pertinent rules of customary international law and treaty provisions."

Nicaragua cited as bases of the Court's jurisdiction Article XXXI of the American Treaty on Pacific Settlement and the declarations of the Parties under Article 36, paragraph 2, of the Statute.

Honduras challenged the Court's jurisdiction over the matters raised by the Application and its admissibility. The Court decided that the first round of pleadings would deal exclusively with the issues of jurisdiction and admissibility. When these pleadings had been filed and the oral arguments of the Parties on these issues had been heard, the Court, by a Judgment delivered on 20 December 1988 (*I.C.J. Reports 1988*, p. 69), found that it had jurisdiction to entertain the Application of Nicaragua and that that Application was admissible.

On 21 April 1989 (*I.C.J. Reports 1989*, p. 6) the President of the Court fixed the following time-limits for the written proceedings on the merits: 19 September 1989 for the Memorial of Nicaragua and 19 February 1990 for the Counter-Memorial of Honduras.

On 31 August 1989 the President of the Court made an Order (*ibid.*, p. 123) extending to 8 December 1989 the time-limit for the Memorial and reserving the question of extension of the time-limit for the filing of the Counter-Memorial of Honduras. The Memorial of Nicaragua was filed within the prescribed time-limit.

By letters dated 13 December 1989 the Agents of both Parties transmitted to the Court the text of an agreement reached by the Presidents of the Central American countries on 12 December 1989 in San Isidro de Coronado, Costa Rica. They referred in particular to paragraph 13 thereof, which recorded the agreement of the President of Nicaragua and the President of Honduras, in the context of arrangements aimed at achieving an extra-judicial settlement of the dispute which is the subject of the proceedings before the Court, to instruct their Agents in the case to communicate immediately, either jointly or separately, the agreement to the Court, and to request the postponement of the date for the fixing of the time-limit for the presentation of the Counter-Memorial of Honduras until 11 June 1990.

By an Order of 14 December 1989 (*ibid.*, p. 174), the Court extended the time-limit for the filing by Honduras of a Counter-Memorial on the merits from 19 February 1990 to a date to be fixed by an order to be made after 11 June 1990.

The President of the Court, having subsequently consulted the Parties,

was informed that they did not desire the new time-limit for the Counter-Memorial to be fixed for the time being, and told them that he would so advise the Court.

By a letter dated 11 May 1992, the Agent of Nicaragua informed the Court that, because the Parties had reached an out-of-court agreement aimed at enhancing their good neighbourly relations, the Government of Nicaragua had decided to renounce all further right of action based on the case, and did not wish to go on with the proceedings.

As required by Article 89 of the Rules of Court, the President of the Court fixed 25 May 1992 as the time-limit within which Honduras might state whether it opposed the discontinuance. By a letter dated 14 May 1992, transmitted to the Registry of the Court by facsimile on 18 May 1992 (the original of which was subsequently transmitted on 27 May 1992), the Co-Agent of Honduras informed the Court that his Government did not oppose discontinuance of the proceedings.

Consequently, on 27 May 1992, the Court made an Order recording the discontinuance of the proceedings and directing the removal of the case from the Court's list (*I.C.J. Reports 1992*, p. 222).

3. *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*

On 16 August 1988, the Government of Denmark filed in the Registry of the Court an Application instituting proceedings against Norway, citing as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Denmark explained that, despite negotiations conducted since 1980, it had not been possible to find an agreed solution to a dispute concerning the delimitation of Denmark's and Norway's fishing zones and continental shelf areas in the waters between the east coast of Greenland and the Norwegian island of Jan Mayen, where both Parties lay claim to an area of some 72,000 square kilometres.

It therefore requested the Court:

"to decide, in accordance with international law, where a single line of delimitation shall be drawn between Denmark's and Norway's fishing zones and continental shelf areas in the waters between Greenland and Jan Mayen".

Denmark chose Mr. Paul Henning Fischer to sit as judge *ad hoc*.

On 14 October 1988 (*I.C.J. Reports 1988*, p. 66), the Court, taking into account the views expressed by the Parties, fixed 1 August 1989 as the time-limit for the Memorial of Denmark and 15 May 1990 for the Counter-Memorial of Norway. Both the Memorial and Counter-Memorial were filed within the prescribed time-limits.

Taking into account an agreement between the Parties that there should be a Reply and a Rejoinder, the President of the Court, by an Order of 21 June 1990 (*I.C.J. Reports 1990*, p. 89), fixed 1 February 1991 as the time-limit for the Reply of Denmark and 1 October 1991 as the time-

limit for the Rejoinder of Norway. The Reply and the Rejoinder were filed within the prescribed time-limits.

4. Aerial Incident of 3 July 1988
(Islamic Republic of Iran v. United States of America)

On 17 May 1989, the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America, citing as bases for the Court's jurisdiction provisions of the 1944 Chicago Convention on International Civil Aviation and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

In its Application, the Islamic Republic of Iran referred to:

"The destruction of an Iranian aircraft, Iran Air Airbus A-300B, flight 655, and the killing of its 290 passengers and crew by two surface-to-air missiles launched from the USS *Vincennes*, a guided-missile cruiser on duty with the United States Persian Gulf/Middle East Force in the Iranian airspace over the Islamic Republic's territorial waters in the Persian Gulf on 3 July 1988."

It contended that,

"by its destruction of Iran Air flight 655 and taking 290 lives, its refusal to compensate the Islamic Republic for damages arising from the loss of the aircraft and individuals on board and its continuous interference with the Persian Gulf aviation",

the Government of the United States had violated certain provisions of the Chicago Convention on International Civil Aviation (7 December 1944), as amended, and of the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 1971), and that the Council of the International Civil Aviation Organization (ICAO) had erred in its decision of 17 March 1989 concerning the incident.

In its Application the Government of the Islamic Republic of Iran requested the Court to adjudge and declare:

- "(a) that the ICAO Council decision is erroneous in that the Government of the United States has violated the Chicago Convention, including the Preamble, Articles 1, 2, 3 *bis* and 44 (a) and (h) and Annex 15 of the Chicago Convention as well as Recommendation 2.6/1 of the Third Middle East Regional Air Navigation Meeting of ICAO;
- (b) that the Government of the United States has violated Articles 1, 3 and 10 (1) of the Montreal Convention; and
- (c) that the Government of the United States is responsible to pay compensation to the Islamic Republic, in the amount to be determined by the Court, as measured by the injuries suffered by the Islamic Republic and the bereaved families as a result of these violations, including additional financial losses which

Iran Air and the bereaved families have suffered for the disruption of their activities."

On 13 December 1989, the Court, having taken into account the views expressed by each of the Parties, fixed 12 June 1990 as the time-limit for the filing of the Memorial of the Islamic Republic of Iran and 10 December 1990 for the filing of the Counter-Memorial of the United States of America (*I.C.J. Reports 1989*, p. 132). Judge Oda appended a declaration to the Order of the Court (*ibid.*, p. 135); Judges Schwebel and Shahabuddeen appended separate opinions (*ibid.*, pp. 136-144 and 145-160).

By an Order of 12 June 1990 (*I.C.J. Reports 1990*, p. 86), made in response to a request by the Islamic Republic of Iran and after the views of the United States of America had been ascertained, the President of the Court extended to 24 July 1990 the time-limit for the filing of the Memorial of the Islamic Republic of Iran and to 4 March 1991 the time-limit for the Counter-Memorial of the United States of America. The Memorial was filed within the prescribed time-limit.

On 4 March 1991, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed certain preliminary objections to the jurisdiction of the Court. By virtue of the provisions of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended and a time-limit had to be fixed for the presentation by the other Party of a written statement of its observations and submissions on the preliminary objections. By an Order of 9 April 1991 (*I.C.J. Reports 1991*, p. 6), the Court, having ascertained the views of the Parties, fixed 9 December 1991 as the time-limit within which the Islamic Republic of Iran may present such observations and submissions.

The Islamic Republic of Iran chose Mr. Mohsen Aghahosseini to sit as judge *ad hoc*.

By Orders of 18 December 1991 (*I.C.J. Reports 1991*, p. 187) and 5 June 1992 (*I.C.J. Reports 1992*, p. 225), made in response to successive requests by Iran and after the views of the United States had been ascertained, the President of the Court extended the above-mentioned time-limit for the written observations and submissions of Iran on the preliminary objections to 9 June and 9 September 1992 respectively.

5. *Certain Phosphate Lands in Nauru (Nauru v. Australia)*

On 19 May 1989 the Republic of Nauru filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in respect of a dispute concerning the rehabilitation of certain phosphate lands mined under Australian administration before Nauruan independence. Nauru cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Nauru claimed that Australia had breached the trusteeship obligations it accepted under Article 76 of the Charter of the United Nations and under Articles 3 and 5 of the Trusteeship Agreement for Nauru of 1 November 1947. Nauru further claimed that Australia

had breached certain obligations towards Nauru under general international law.

The Republic of Nauru requested the Court to adjudge and declare:

"that Australia has incurred an international legal responsibility and is bound to make restitution or other appropriate reparation to Nauru for the damage and prejudice suffered";

and further

"that the nature and amount of such restitution or reparation should, in the absence of agreement between the Parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

By an Order of 18 July 1989 (*I.C.J. Reports 1989*, p. 12), the Court, having ascertained the views of the Parties, fixed 20 April 1990 as the time-limit for the Memorial of Nauru and 21 January 1991 for the Counter-Memorial of Australia. The Memorial was filed within the prescribed time-limit.

On 16 January 1991, within the time-limit fixed for the filing of the Counter-Memorial, Australia filed certain preliminary objections whereby it asked the Court to adjudge and declare "that the Application by Nauru is inadmissible and that the Court lacks jurisdiction to hear the claims made by Nauru". In accordance with Article 79, paragraph 2, of the Rules of Court the proceedings on the merits were suspended and the Court, by an Order of 8 February 1991 (*I.C.J. Reports 1991*, p. 3), fixed 19 July 1991 as the time-limit within which Nauru might present a written statement of its observations and submissions on the objections. This written statement was filed within the prescribed time-limit.

Oral proceedings on the issues of jurisdiction and admissibility were held from 11 to 22 November 1991. During eight public sittings the Court heard statements made on behalf of Australia and Nauru. Members of the Court put questions to the Parties.

On 26 June 1992, at a public sitting, the Court delivered its Judgment on the Preliminary Objections (*I.C.J. Reports 1992*, p. 240), a summary of which is given below, followed by the text of the operative paragraph.

1. History of the case (paras. 1-6)

In its Judgment, the Court recalled that on 19 May 1989 Nauru had filed in the Registry of the Court an Application instituting proceedings against Australia in respect of a "dispute . . . over the rehabilitation of certain phosphate lands [in Nauru] worked out before Nauruan independence". It noted that to found the jurisdiction of the Court the Application relied on the declarations made by the two States accepting the jurisdiction of the Court, as provided for in Article 36, paragraph 2, of the Statute of the Court.

After reciting the history of the case, the Court set out the following submissions presented by Nauru in the Memorial:

"On the basis of the evidence and legal argument presented in this Memorial, the Republic of Nauru

Requests the Court to adjudge and declare

that the Respondent State bears responsibility for breaches of the following legal obligations:

First: the obligations set forth in Article 76 of the United Nations Charter and Articles 3 and 5 of the Trusteeship Agreement for Nauru of 1 November 1947.

Second: the international standards generally recognized as applicable in the implementation of the principle of self-determination.

Third: the obligation to respect the right of the Nauruan people to permanent sovereignty over their natural wealth and resources.

Fourth: the obligation of general international law not to exercise powers of administration in such a way as to produce a denial of justice *lato sensu*.

Fifth: the obligation of general international law not to exercise powers of administration in such a way as to constitute an abuse of rights.

Sixth: the principle of general international law that a State which is responsible for the administration of territory is under an obligation not to bring about changes in the condition of the territory which will cause irreparable damage to, or substantially prejudice, the existing or contingent legal interest of another State in respect of that territory.

Requests the Court to adjudge and declare further

that the Republic of Nauru has a legal entitlement to the Australian allocation of the overseas assets of the British Phosphate Commissioners which were marshalled and disposed of in accordance with the trilateral Agreement concluded on 9 February 1987.

Requests the Court to adjudge and declare

that the Respondent State is under a duty to make appropriate reparation in respect of the loss caused to the Republic of Nauru as a result of the breaches of its legal obligations detailed above and its failure to recognize the interest of Nauru in the overseas assets of the British Phosphate Commissioners."

The Court further set out the submissions presented by Australia in its Preliminary Objections and by Nauru in the Written Statement of its Observations and Submissions on the Preliminary Objections, as well as the final submissions presented by each of the Parties in the course of the oral proceedings, of which the latter are as follows:

On behalf of Australia:

"On the basis of the facts and law set out in its Preliminary

Objections and its oral pleadings, and for all or any of the grounds and reasons set out therein, the Government of Australia requests the Court to adjudge and declare that the claims by Nauru against Australia set out in their Application and Memorial are inadmissible and that the Court lacks jurisdiction to hear the claims."

On behalf of Nauru,

"In consideration of its written and oral pleadings the Government of the Republic of Nauru requests the Court:

To reject the preliminary objections raised by Australia,
and

To adjudge and declare:

- (a) that the Court has jurisdiction in respect of the claims presented in the *Memorial* of Nauru, and
- (b) that the claims are admissible.

In the alternative, the Government of the Republic of Nauru requests the Court to declare that some or all of the Australian preliminary objections do not possess, in the circumstances of the case, an exclusively preliminary character, and in consequence, to join some or all of these objections to the merits."

II. Objections concerning the circumstances in which the dispute arose
(paras. 8-38)

1. The Court began by considering the question of its jurisdiction. Nauru based the Court's jurisdiction on the declarations whereby Australia and Nauru had accepted the jurisdiction of the Court under Article 36, paragraph 2, of the Statute. The declaration of Australia specified that it "does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement".

Australia contended that as a result of the latter reservation the Court lacked jurisdiction to deal with Nauru's Application. It recalled that Nauru had been placed under the Trusteeship System provided for in Chapter XII of the United Nations Charter by a Trusteeship Agreement approved by the General Assembly on 1 November 1947 and argued that any dispute which arose in the course of the Trusteeship between "the Administering Authority and the indigenous inhabitants" should be regarded as having been settled by the very fact of the termination of the Trusteeship, provided that that termination was unconditional.

The effect of the Agreement relating to the Nauru Island Phosphate Industry, concluded on 14 November 1967 between the Nauru Local Government Council, on the one hand, and Australia, New Zealand and the United Kingdom, on the other, was, in Australia's submission, that Nauru had waived its claims to rehabilitation of the phosphate lands. Australia maintained, moreover, that on 19 December 1967, the United

Nations General Assembly had terminated the Trusteeship without making any reservation relating to the administration of the Territory. In those circumstances, Australia contended that, with respect to the dispute presented in Nauru's Application, Australia and Nauru had agreed "to have recourse to some other method of peaceful settlement" within the meaning of the reservation in Australia's declaration, and that consequently the Court lacked jurisdiction to deal with that dispute.

The Court considered that declarations made pursuant to Article 36, paragraph 2, of the Statute of the Court could only relate to disputes between States. The declaration of Australia only covered that type of dispute; it was made expressly "in relation to any other State accepting the same obligation . . .". In those circumstances, the question that arose in this case was whether Australia and the Republic of Nauru had or had not, after 31 January 1968, when Nauru acceded to independence, concluded an agreement whereby the two States undertook to settle their dispute relating to rehabilitation of the phosphate lands by resorting to an agreed procedure other than recourse to the Court. No such agreement had been pleaded or shown to exist. That question had therefore to be answered in the negative. The Court thus rejected the objection raised by Australia on the basis of the above-mentioned reservation.

2. Australia's second objection was that the Nauruan authorities, even before acceding to independence, had waived all claims relating to rehabilitation of the phosphate lands. This objection contained two branches. In the first place, the waiver, it was said, had been the implicit but necessary result of the above-mentioned Agreement of 14 November 1967. It was also said to have resulted from the statements made in the United Nations in the autumn of 1967 by the Nauruan Head Chief on the occasion of the termination of the Trusteeship. In the view of Australia, Nauru was precluded from going back on that two-fold waiver and its claim should accordingly be rejected as inadmissible.

Having taken into consideration the negotiations which led to the Agreement of 14 November 1967, the Agreement itself, and the discussions at the United Nations, the Court concluded that the Nauruan local authorities had not, before independence, waived their claim relating to rehabilitation of the phosphate lands worked out prior to 1 July 1967. The Court therefore rejected the second objection raised by Australia.

3. Australia's third objection was that Nauru's claim was

"inadmissible on the ground that termination of the Trusteeship by the United Nations precludes allegations of breaches of the Trusteeship Agreement from now being examined by the Court".

The Court noted that, by resolution 2347 (XXII) of 19 December 1967, the General Assembly of the United Nations had resolved

"in agreement with the Administering Authority, that the Trusteeship Agreement for the Territory of Nauru . . . shall cease to be in

force upon the accession of Nauru to independence on 31 January 1968".

The Court observed that such a resolution had "definitive legal effect" (*Northern Cameroons, Judgment, I.C.J. Reports 1963*, p. 32), and that consequently, the Trusteeship Agreement was "terminated" on that date and "is no longer in force" (*ibid.*, p. 37). It then examined the particular circumstances in which the Trusteeship for Nauru had been terminated. It concluded that the facts showed that when, on the recommendation of the Trusteeship Council, the General Assembly had terminated the Trusteeship over Nauru in agreement with the Administering Authority, everyone had been aware of subsisting differences of opinion between the Nauru Local Government Council and the Administering Authority with regard to rehabilitation of the phosphate lands worked out before 1 July 1967. Accordingly, though General Assembly resolution 2347 (XXII) had not expressly reserved any rights which Nauru might have had in that regard, the Court could not view that resolution as giving a discharge to the Administering Authority with respect to such rights. In the opinion of the Court, the rights Nauru might have had in connection with rehabilitation of the lands remained unaffected. The Court therefore, having regard to the particular circumstances of the case, rejected Australia's third objection.

4. Australia's fourth objection stressed that Nauru had achieved independence on 31 January 1968 and that, as regards rehabilitation of the lands, it was not until December 1988 that that State formally "raised with Australia and the other former Administering Powers its position". Australia therefore contended that Nauru's claim was inadmissible on the ground that it had not been submitted within a reasonable time.

The Court recognized that, even in the absence of any applicable treaty provision, delay on the part of a claimant State might render an application inadmissible. It noted, however, that international law did not lay down any specific time-limit in that regard. It was therefore for the Court to determine in the light of the circumstances of each case whether the passage of time rendered an application inadmissible. The Court then took note of the fact that Nauru had been officially informed, at the latest by a letter of 4 February 1969, of the position of Australia on the subject of rehabilitation of the phosphate lands worked out before 1 July 1967. Nauru took issue with that position in writing only on 6 October 1983. In the meantime, however, as stated by Nauru and not contradicted by Australia, the question had on two occasions been raised by the President of Nauru with the competent Australian authorities. The Court considered that, given the nature of relations between Australia and Nauru, as well as the steps thus taken, Nauru's Application had not been rendered inadmissible by passage of time, but that it would be for the Court, in due time, to ensure that Nauru's delay in seising it would in no way cause prejudice to Australia with regard to both the establishment of the facts and the determination of the content of the applicable law.

5. The Court further rejected Australia's fifth objection to the effect that "Nauru has failed to act consistently and in good faith in relation to rehabilitation" and that therefore "the Court in exercise of its discretion, and in order to uphold judicial propriety should . . . decline to hear the Nauruan claims". The Court found that the Application of Nauru had been properly submitted in the framework of the remedies open to it and that there had been no abuse of process.

III. Objection based on the fact that New Zealand and the United Kingdom were not parties to the proceedings (paras. 39-57)

6. The Court then considered the objection by Australia based on the fact that New Zealand and the United Kingdom were not parties to the proceedings.

In order to assess the validity of this objection, the Court first referred to the Mandate and Trusteeship régimes and the way in which they had applied to Nauru. It noted that the three Governments mentioned in the Trusteeship Agreement had constituted, in the very terms of that Agreement, "the Administering Authority" for Nauru; that this Authority had not had an international legal personality distinct from those of the States thus designated; and that, of those States, Australia had played a very special role established by the Trusteeship Agreement of 1947, by the Agreements of 1919, 1923 and 1965, and by practice.

The Court observed that Australia's preliminary objection in this respect appeared to contain two branches, the first of which could be dealt with briefly. Australia first contended that, in so far as Nauru's claims were based on the conduct of Australia as one of the three States making up the Administering Authority under the Trusteeship Agreement, the nature of the responsibility in that respect was such that a claim might only be brought against the three States jointly, and not against one of them individually. The Court did not consider that any reason had been shown why a claim brought against only one of the three States should be declared inadmissible *in limine litis* merely because that claim raised questions of the administration of the Territory, which was shared with two other States. It could not be denied that Australia had had obligations under the Trusteeship Agreement, in its capacity as one of the three States forming the Administering Authority, and there was nothing in the character of that Agreement which debarred the Court from considering a claim of a breach of those obligations by Australia.

Secondly, Australia argued that, since together with itself, New Zealand and the United Kingdom had made up the Administering Authority, any decision of the Court as to the alleged breach by Australia of its obligations under the Trusteeship Agreement had necessarily to involve a finding as to the discharge by those two other States of their obligations in that respect, which would be contrary to the fundamental principle that the jurisdiction of the Court derived solely from the consent of States. The question that arose was accordingly whether, given the régime

thus described, the Court might, without the consent of New Zealand and the United Kingdom, deal with an Application brought against Australia alone.

The Court then examined its own case-law on questions of this kind (cases concerning the *Monetary Gold Removed from Rome in 1943* (*Preliminary Question*), *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) and the *Land, Island and Maritime Frontier Dispute* (*El Salvador/Honduras*)). It referred to the fact that national courts, for their part, had more often than not the necessary power to order *proprio motu* the joinder of third parties who might be affected by the decision to be rendered; and that that solution made it possible to settle a dispute in the presence of all the parties concerned. It went on to consider that on the international plane, however, the Court had no such power. Its jurisdiction depended on the consent of States and, consequently, the Court might not compel a State to appear before it, even by way of intervention. A State, however, which was not a party to a case was free to apply for permission to intervene in accordance with Article 62 of the Statute. But the absence of such a request for intervention in no way precluded the Court from adjudicating upon the claims submitted to it, provided that the legal interests of the third State which might possibly be affected did not form the very subject-matter of the decision applied for. Where the Court was so entitled to act, the interests of the third State which was not a party to the case were protected by Article 59 of the Statute of the Court, which provided that "The decision of the Court has no binding force except between the parties and in respect of that particular case."

The Court then found that in the present case, the interests of New Zealand and the United Kingdom did not constitute the very subject-matter of the judgment to be rendered on the merits of Nauru's Application and that, although a finding by the Court regarding the existence or the content of the responsibility attributed to Australia by Nauru might well have implications for the legal situation of the two other States concerned, no finding in respect of that legal situation would be needed as a basis for the Court's decision on Nauru's claims against Australia. Accordingly, the Court could not decline to exercise its jurisdiction and the objection put forward in this respect by Australia had to be rejected.

IV. Objections to the claim by Nauru concerning the overseas assets of the British Phosphate Commissioners (paras. 58-71)

7. Finally, the Court examined the objections addressed by Australia to the claim by Nauru concerning the overseas assets of the British Phosphate Commissioners. At the end of its Memorial on the merits, Nauru had requested the Court to adjudge and declare that

"the Republic of Nauru has a legal entitlement to the Australian allocation of the overseas assets of the British Phosphate Commis-

sioners which were marshalled and disposed of in accordance with the trilateral Agreement concluded on 9 February 1987"

and that

"the Respondent State is under a duty to make appropriate reparation in respect of the loss caused to the Republic of Nauru as a result of . . . its failure to recognize the interest of Nauru in the overseas assets of the British Phosphate Commissioners".

The British Phosphate Commissioners had been established by Article 3 of the Agreement of 2 July 1919 between the United Kingdom, Australia and New Zealand, with one Commissioner to be appointed by each of the Partner Governments. These Commissioners had managed an enterprise entrusted with the exploitation of the phosphate deposits on the island of Nauru.

Australia maintained, *inter alia*, that Nauru's claim concerning the overseas assets of the British Phosphate Commissioners was inadmissible on the ground that it was a new claim which appeared for the first time in the Nauruan Memorial; that Nauru had not proved the existence of any real link between that claim, on the one hand, and its claim relating to the alleged failure to observe the Trusteeship Agreement and to the rehabilitation of the phosphate lands, on the other; and that the claim in question sought to transform the dispute brought before the Court into a dispute that would be of a different nature.

The Court concluded that the Nauruan claim relating to the overseas assets of the British Phosphate Commissioners was inadmissible inasmuch as it constituted, both in form and in substance, a new claim, and as the subject of the dispute originally submitted to the Court would have been transformed if it had entertained that claim. It referred in that connection to Article 40, paragraph 1, of the Statute of the Court which provided that the "subject of the dispute" was to be indicated in the Application; and to Article 38, paragraph 2, of the Rules of Court which required "the precise nature of the claim" to be specified in the Application.

The Court therefore found that the preliminary objection raised by Australia on that point was well founded, and that it was not necessary for the Court, at that juncture, to consider the other objections of Australia with regard to the submissions of Nauru concerning the overseas assets of the British Phosphate Commissioners.

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Operative paragraph (para. 72)

"THE COURT,

(1) (a) *rejects*, unanimously, the preliminary objection based on the reservation made by Australia in its declaration of acceptance of the compulsory jurisdiction of the Court;

(b) *rejects*, by twelve votes to one, the preliminary objection based on the alleged waiver by Nauru, prior to accession to independence, of all claims concerning the rehabilitation of the phosphate lands worked out prior to 1 July 1967;

IN FAVOUR: *President* Sir Robert Jennings; *Judges* Lachs, Ago, Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Ranjeva;

AGAINST: *Vice-President* Oda;

(c) *rejects*, by twelve votes to one, the preliminary objection based on the termination of the Trusteeship over Nauru by the United Nations;

IN FAVOUR: *President* Sir Robert Jennings; *Judges* Lachs, Ago, Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Ranjeva;

AGAINST: *Vice-President* Oda;

(d) *rejects*, by twelve votes to one, the preliminary objection based on the effect of the passage of time on the admissibility of Nauru's Application;

IN FAVOUR: *President* Sir Robert Jennings; *Judges* Lachs, Ago, Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Ranjeva;

AGAINST: *Vice-President* Oda;

(e) *rejects*, by twelve votes to one, the preliminary objection based on Nauru's alleged lack of good faith;

IN FAVOUR: *President* Sir Robert Jennings; *Judges* Lachs, Ago, Schwebel, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Ranjeva;

AGAINST: *Vice-President* Oda;

(f) *rejects*, by nine votes to four, the preliminary objection based on the fact that New Zealand and the United Kingdom are not parties to the proceedings;

IN FAVOUR: *Judges* Lachs, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Ranjeva;

AGAINST: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel;

(g) *upholds*, unanimously, the preliminary objection based on the claim concerning the overseas assets of the British Phosphate Commissioners being a new one;

(2) *finds*, by nine votes to four, that, on the basis of Article 36, paragraph 2, of the Statute of the Court, it has jurisdiction to entertain the Application filed by the Republic of Nauru on 19 May 1989 and that the said Application is admissible;

IN FAVOUR: *Judges* Lachs, Bedjaoui, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley, Ranjeva;

AGAINST: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel;

(3) *finds*, unanimously, that the claim concerning the overseas assets of the British Phosphate Commissioners, made by Nauru in its Memorial of 20 April 1990, is inadmissible."

Judge Shahabuddeen appended a separate opinion to the Judgment (*I.C.J. Reports 1992*, pp. 270-300); President Sir Robert Jennings, Vice-President Oda and Judges Ago and Schwebel appended dissenting opinions (*ibid.*, pp. 301-302, 303-325, 326-328 and 329-343).

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By an Order of 29 June 1992 (*I.C.J. Reports 1992*, p. 345), the President of the Court, having ascertained the views of the Parties, fixed 29 March 1993 as the time-limit for the filing of the Counter-Memorial of Australia.

6. *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*

On 23 August 1989 the Republic of Guinea-Bissau filed in the Registry of the Court an Application instituting proceedings against the Republic of Senegal, citing as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

The Application explained that, notwithstanding the negotiations carried on from 1977 onwards, the two States had been unable to reach a settlement of a dispute concerning the maritime delimitation to be effected between them. Consequently they had jointly consented, by an Arbitration Agreement dated 12 March 1985, to submit that dispute to an Arbitration Tribunal composed of three members.

The Application further indicated that, according to the terms of Article 2 of that Agreement, the Tribunal was asked to rule on the following two-fold question:

"1. Does the agreement concluded by an exchange of letters [between France and Portugal] on 26 April 1960, and which relates to the maritime boundary, have the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal?"

2. In the event of a negative answer to the first question, what is the course of the line delimiting the maritime territories appertaining to the Republic of Guinea-Bissau and the Republic of Senegal respectively?"

The Application added that it had been specified, in Article 9 of the Agreement, that the Tribunal would inform the two Governments of its decision regarding the questions set forth in Article 2, and that that decision should include the drawing on a map of the frontier line – the Application emphasized that the Agreement used the word "line" in the singular.

According to the Application, the Tribunal communicated to the Parties on 31 July 1989 a "text that was supposed to serve as an award" but did not in fact amount to one.

Guinea-Bissau, contending that a "new dispute thus came into existence, relating to the applicability of the text issued by way of award on 31 July 1989", therefore asked the Court to adjudge and declare:

- "— that [the] so-called decision [of the Tribunal] is inexistent in view of the fact that one of the two arbitrators making up the appearance of a majority in favour of the text of the 'award', has, by a declaration appended to it, expressed a view in contradiction with the one apparently adopted by the vote;
- subsidiarily, that that so-called decision is null and void, as the Tribunal did not give a complete answer to the two-fold question raised by the Agreement and so did not arrive at a single delimitation line duly recorded on a map, and as it has not given the reasons for the restrictions thus improperly placed upon its jurisdiction;
- that the Government of Senegal is thus not justified in seeking to require the Government of Guinea-Bissau to apply the so-called award of 31 July 1989".

Guinea-Bissau chose Mr. Hubert Thierry to sit as judge *ad hoc*.

By an Order of 1 November 1989 (*I.C.J. Reports 1989*, p. 126), the Court, having ascertained the views of the Parties, fixed 2 May 1990 as the time-limit for the filing of the Memorial of Guinea-Bissau and 31 October 1990 for the filing of the Counter-Memorial of Senegal. Both the Memorial and the Counter-Memorial were filed within the prescribed time-limits.

On 18 January 1990 a request was filed in the Registry whereby Guinea-Bissau, on the ground of actions stated to have been taken by the Senegalese Navy in a maritime area which Guinea-Bissau regarded as an area disputed between the Parties, requested the Court to indicate the following provisional measures:

"In order to safeguard the rights of each of the Parties, they shall abstain in the disputed area from any act or action of any kind whatever, during the whole duration of the proceedings until the decision is given by the Court."

Having held public sittings on 12 February 1990 to hear the oral observations of both Parties on the request for provisional measures, the Court, by an Order of 2 March 1990 (*I.C.J. Reports 1990*, p. 64) dismissed that request. Judges Evensen and Shahabuddeen appended separate opinions to the Order (*ibid.*, pp. 72-73 and 74-78). Judge *ad hoc* Thierry appended a dissenting opinion (*ibid.*, pp. 79-84).

Mr. Kéba Mbaye was chosen by Senegal to sit as judge *ad hoc* in the case following the expiration of his term of office as a Member of the Court.

Oral proceedings on the merits of the case were held from 3 to 11 April 1991. During seven public sittings, the Court heard statements made on behalf of Guinea-Bissau and of Senegal. Members of the Court put questions to the Parties.

On 12 November 1991, at a public sitting, the Court delivered its Judgment (*I.C.J. Reports 1991*, p. 53), a summary of which is given below, followed by the text of the operative paragraph.

I. Review of the proceedings and summary of facts (paras. 1-21)

The Court outlined the successive stages of the proceedings as from the time at which the case had been brought before it (paras. 1-9) and set out the submissions of the Parties (paras. 10-11). It recalled that, on 23 August 1989, Guinea-Bissau had instituted proceedings against Senegal in respect of a dispute concerning the existence and validity of the Arbitral Award delivered on 31 July 1989 by an Arbitration Tribunal consisting of three arbitrators and established pursuant to an Arbitration Agreement concluded by the two States on 12 March 1985. The Court went on to summarize the facts of the case as follows (paras. 12-21):

On 26 April 1960, an Agreement by exchange of letters was concluded between France and Portugal for the purpose of defining the maritime boundary between the Republic of Senegal (at that time an autonomous State within the *Communauté* established by the constitution of the French Republic of 1958) and the Portuguese Province of Guinea. The letter of France proposed (*inter alia*) as follows:

"As far as the outer limit of the territorial sea, the boundary shall consist of a straight line drawn at 240° from the intersection of the prolongation of the land frontier and the low-water mark, represented for that purpose by the Cape Roxo lighthouse.

As regards the contiguous zones and the continental shelf, the delimitation shall be constituted by the prolongation in a straight line, in the same direction, of the boundary of the territorial seas."

The letter of Portugal expressed its agreement to this proposal.

After the accession to independence of Senegal and Portuguese Guinea, which became Guinea-Bissau, a dispute arose between those two States concerning the delimitation of their maritime areas. This dispute was the subject of negotiations between them from 1977 onward, in the course of which Guinea-Bissau insisted that the maritime areas in question be delimited without reference to the 1960 Agreement, disputing its validity and its opposability to Guinea-Bissau.

On 12 March 1985 the Parties concluded an Arbitration Agreement for submission of that dispute to an Arbitration Tribunal, Article 2 of which Agreement read as follows:

"The Tribunal is requested to decide in accordance with the norms of international law on the following questions:

1. Does the Agreement concluded by an exchange of letters on 26 April 1960, and which relates to the maritime boundary, have the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal?

2. In the event of a negative answer to the first question, what is the course of the line delimiting the maritime territories appertaining to the Republic of Guinea-Bissau and the Republic of Senegal respectively?"

Article 9 of the Arbitration Agreement provided, among other things, that the decision "shall include the drawing of the boundary line on a map".

An Arbitration Tribunal (hereinafter called "the Tribunal") was duly constituted under the Agreement, Mr. Mohammed Bedjaoui and Mr. André Gros having successively been appointed as arbitrators and Mr. Julio A. Barberis as President. On 31 July 1989 the Tribunal pronounced the Award the existence and validity of which were challenged by Guinea-Bissau in the case before the Court.

The findings of the Tribunal were summarized by the Court as follows. The Tribunal concluded that the 1960 Agreement was valid and could be opposed to Senegal and to Guinea-Bissau (Award, para. 80); that it had to be interpreted in the light of the law in force at the date of its conclusion (*ibid.*, para. 85); that

"the 1960 Agreement does not delimit those maritime spaces which did not exist at that date, whether they be termed exclusive economic zone, fishery zone or whatever . . .",

but that

"the territorial sea, the contiguous zone and the continental shelf . . . are expressly mentioned in the 1960 Agreement and they existed at the time of its conclusion" (*ibid.*).

After examining "the question of determining how far the boundary line extends . . . today, in view of the evolution of the definition of the concept of 'continental shelf'", the Tribunal explained that

"Bearing in mind the above conclusions reached by the Tribunal and the wording of Article 2 of the Arbitration Agreement, in the opinion of the Tribunal it is not called upon to reply to the second question.

Furthermore, in view of its decision, the Tribunal considered that there was no need to append a map showing the course of the boundary line." (*Ibid.*, para. 87.)

The operative clause of the Award was as follows:

"For the reasons stated above, the Tribunal *decides* by two votes to one:

To reply as follows to the first question formulated in Article 2

of the Arbitration Agreement: The Agreement concluded by an exchange of letters of 26 April 1960, and relating to the maritime boundary, has the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal with regard solely to the areas mentioned in that Agreement, namely the territorial sea, the contiguous zone and the continental shelf. The 'straight line drawn at 240°' is a loxodromic line." (Para. 88.)

Mr. Barberis, President of the Tribunal, who, together with Mr. Gros, voted for the Award, appended a declaration to it, while Mr. Bedjaoui, who had voted against the Award, appended a dissenting opinion. The declaration of Mr. Barberis read, in particular, as follows:

"I feel that the reply given by the Tribunal to the first question put by the Arbitration Agreement could have been more precise. I would have replied to that question as follows:

'The Agreement concluded by an exchange of letters of 26 April 1960, and relating to the maritime boundary, has the force of law in the relations between the Republic of Guinea-Bissau and the Republic of Senegal with respect to the territorial sea, the contiguous zone and the continental shelf, but does not have the force of law with respect to the waters of the exclusive economic zone or the fishery zone. The "straight line drawn at 240°" mentioned in the Agreement of 26 April 1960 is a loxodromic line.'

This partially affirmative and partially negative reply is, in my view, the exact description of the legal position existing between the Parties. As suggested by Guinea-Bissau in the course of the present arbitration (Reply, p. 248), this reply would have enabled the Tribunal to deal in its Award with the second question put by the Arbitration Agreement. The *partially* negative reply to the first question would have conferred on the Tribunal a *partial* competence to reply to the second, i.e., to do so to the extent that the reply to the first question would have been negative.

On 31 July 1989 the Tribunal held a public sitting for delivery of the Award; Mr. Barberis, the President, and Mr. Bedjaoui were present, but not Mr. Gros. At that sitting, after the Award had been delivered, the representative of Guinea-Bissau indicated that, pending full reading of the documents and consultation with his Government, he reserved the position of Guinea-Bissau regarding the applicability and validity of the Award, which did not, in his opinion, satisfy the requirements laid down by agreement between the two Parties. After contacts between the Governments of the two Parties, in which Guinea-Bissau indicated its reasons for not accepting the Award, the proceedings were brought before the Court by Guinea-Bissau.

II. Question of the jurisdiction of the Court, of the admissibility of the Application and the possible effect of the absence of an arbitrator from the meeting at which the Award was delivered (paras. 22-29)

The Court first considered its jurisdiction. In its Application, Guinea-Bissau founded the jurisdiction of the Court on

"the declarations by which the Republic of Guinea-Bissau and the Republic of Senegal have respectively accepted the jurisdiction of the Court under the conditions set forth in Article 36, paragraph 2, of the Statute"

of the Court. Those declarations had been deposited with the Secretary-General of the United Nations, in the case of Senegal on 2 December 1985, and in the case of Guinea-Bissau on 7 August 1989. Guinea-Bissau's declaration contained no reservation. Senegal's declaration, which replaced its previous declaration, of 3 May 1985, provided among other things that

"Senegal may reject the Court's competence in respect of:

– Disputes in regard to which the parties have agreed to have recourse to some other means of settlement . . .",

and specified that it applied only to "all legal disputes arising after the present declaration . . .".

Senegal observed that if Guinea-Bissau were to challenge the decision of the Tribunal on the merits, it would be raising a question excluded from the Court's jurisdiction by the terms of Senegal's declaration. According to Senegal, the dispute concerning the maritime delimitation was the subject of the Arbitration Agreement of 12 March 1985 and consequently fell into the category of disputes "in regard to which the parties have agreed to have recourse to some other method of settlement". Furthermore, in the view of Senegal, that dispute arose before 2 December 1985, the date on which Senegal's acceptance of the compulsory jurisdiction of the Court became effective, and was thus excluded from the category of disputes "arising after" that declaration.

However, the Parties were agreed that there was a distinction between the substantive dispute relating to maritime delimitation, and the dispute relating to the Award rendered by the Tribunal, and that only the latter dispute, which arose after the Senegalese declaration, was the subject of the proceedings before the Court. Guinea-Bissau also took the position, which Senegal accepted, that those proceedings were not intended by way of appeal from the Award or as an application for revision of it. Thus, both parties recognized that no aspect of the substantive delimitation dispute was involved. On that basis, Senegal did not dispute that the Court had jurisdiction to entertain the Application under Article 36, paragraph 2, of the Statute. In the circumstances of the case the Court regarded its jurisdiction as established and emphasized that, as the Parties were both agreed, the proceedings alleged the inexistence and nullity of the Award rendered by the Tribunal and were not by way of appeal from it or application for revision of it.

The Court then considered a contention by Senegal that Guinea-Bissau's Application was inadmissible in so far as it sought to use the declaration of President Barberis for the purpose of casting doubt on the validity of the Award. Senegal argued in particular that that declaration was not part of the Award, and therefore that any attempt by Guinea-Bissau to make use of it for that purpose "must be regarded as an abuse of process aimed at depriving Senegal of the rights belonging to it under the Award".

The Court considered that Guinea-Bissau's Application had been properly presented in the framework of its right to have recourse to the Court in the circumstances of the case. Accordingly it did not accept Senegal's contention that Guinea-Bissau's Application, or the arguments used in support of it, amounted to an abuse of process.

Guinea-Bissau contended that the absence of Mr. Gros from the meeting of the Tribunal at which the Award had been pronounced amounted to a recognition that the Tribunal had failed to resolve the dispute, that this had been a particularly important meeting of the Tribunal and that the absence of Mr. Gros had lessened the Tribunal's authority. The Court noted that it was not disputed that Mr. Gros participated in the voting when the Award was adopted. The absence of Mr. Gros from that meeting could not have affected the validity of the Award which had already been adopted.

III. Question of the inexistence of the Award (paras. 30-34)

In support of its principal contention that the Award was inexistent, Guinea-Bissau claimed that the Award was not supported by a real majority. It did not dispute the fact that the Award was expressed to have been adopted by the votes of President Barberis and Mr. Gros; it contended however that President Barberis's declaration contradicted and invalidated his vote, thus leaving the Award unsupported by a real majority. In this regard Guinea-Bissau drew attention to the terms of the operative clause of the Award (see pp. 167-168 above) and to the language advocated by President Barberis in his declaration (p. 168).

The Court considered that, in putting forward this formulation, what President Barberis had had in mind was that the Tribunal's answer to the first question "could have been more precise" – to use his own words – not that it had to be more precise in the sense indicated in his formulation, which was, in his view, a preferable one, not a necessary one. In the opinion of the Court, the formulation disclosed no contradiction with that of the Award.

Guinea-Bissau also drew attention to the fact that President Barberis expressed the view that his own formulation "would have enabled the Tribunal to deal in its Award with the second question put by the Arbitration Agreement" and that the Tribunal would in consequence "have been competent to delimit the waters of the exclusive economic zone or the fishery zone between the two countries", in addition to the

other areas. The Court considered that the view expressed by President Barberis, that the reply which he would have given to the first question would have enabled the Tribunal to deal with the second question, represented, not a position taken by him as to what the Tribunal was required to do, but only an indication of what he considered would have been a better course. His position therefore could not be regarded as standing in contradiction with the position adopted by the Award.

Furthermore, even if there had been any contradiction, for either of the two reasons relied on by Guinea-Bissau, between the view expressed by President Barberis and that stated in the Award, the Court noted that such contradiction could not prevail over the position which President Barberis had taken when voting for the Award. In agreeing to the Award, he definitively agreed to the decisions, which it incorporated, as to the extent of the maritime areas governed by the 1960 Agreement, and as to the Tribunal not being required to answer the second question in view of its answer to the first. The Court added that as the practice of international tribunals showed, it sometimes happened that a member of a tribunal voted in favour of a decision of the tribunal even though he might individually have been inclined to prefer another solution. The validity of his vote remained unaffected by the expression of any such differences in a declaration or separate opinion of the member concerned, which was therefore without consequence for the decision of the tribunal.

Accordingly, in the opinion of the Court, the contention of Guinea-Bissau that the Award was inexistent for lack of a real majority could not be accepted.

IV. *Question of the nullity of the Award* (paras. 35-65)

Subsidiarily, Guinea-Bissau maintained that the Award was, as a whole, null and void, on the grounds of *excès de pouvoir* and of insufficiency of reasoning. Guinea-Bissau observed that the Tribunal had not replied to the second question put in Article 2 of the Arbitration Agreement, and had not appended to the Award the map provided for in Article 9 of that Agreement. It was contended that these two omissions constituted an *excès de pouvoir*. Furthermore, Guinea-Bissau maintained that the Tribunal had given no reasons for its decision not to proceed to the second question, for not producing a single delimitation line, and for refusing to draw that line on a map.

1. *Absence of a reply to the second question*

(a) Guinea-Bissau suggested that, rather than deciding not to answer the second question put to it, the Tribunal had simply omitted, for lack of a real majority, to reach any decision at all on the issue. In this respect Guinea-Bissau stressed that what was referred to in the first sentence of paragraph 87 of the Award as an "opinion of the Tribunal" on the point appeared in the statement of reasoning, not in the operative clause of the Award; that the Award did not specify the majority by which that

paragraph had been adopted; and that only Mr. Gros could have voted in favour of this paragraph. In the light of the declaration made by President Barberis, Guinea-Bissau questioned whether any vote had been taken on paragraph 87. The Court recognized that the structure of the Award was, in that respect, open to criticism. Article 2 of the Arbitration Agreement had put two questions to the Tribunal. The latter was, according to Article 9, to "inform the two Governments of its decision regarding the questions set forth in Article 2". Consequently, the Court considered that it would have been normal to include in the operative part of the Award both the answer given to the first question and the decision not to answer the second. It was to be regretted that this course had not been followed. Nevertheless the Court was of the opinion that the Tribunal, when it adopted the Award, was not only approving the content of paragraph 88, but was also doing so for the reasons already stated in the Award and, in particular, in paragraph 87. It was clear from paragraph 87, taken in its context, and also from the declaration of President Barberis, that the Tribunal had decided by two votes to one that, as it had given an affirmative answer to the first question, it did not have to answer the second. The Court observed that, by so doing, the Tribunal had taken a decision: namely, not to answer the second question put to it. It concluded that the Award was not flawed by any failure to decide.

(b) Guinea-Bissau argued, secondly, that any arbitral award had, in accordance with general international law, to be a reasoned one. Moreover, according to Article 9 of the Arbitration Agreement, the Parties had specifically agreed that "the Award shall state in full the reasons on which it is based". Yet, according to Guinea-Bissau, the Tribunal in this case had not given any reasoning in support of its refusal to reply to the second question put by the Parties or, at the very least, had given "wholly insufficient" reasoning. The Court observed that in paragraph 87 of the Award, referred to above, the Tribunal, "bearing in mind the . . . conclusions" that it had reached, together with "the wording of Article 2 of the Arbitration Agreement", had taken the view that it was not called upon to reply to the second question put to it. The reasoning was brief, and could doubtless have been developed further. But the references in paragraph 87 to the Tribunal's conclusions and to the wording of Article 2 of the Arbitration Agreement made it possible to determine, without difficulty, the reasons why the Tribunal had decided not to answer the second question. The Court observed that, by referring to the wording of Article 2 of the Arbitration Agreement, the Tribunal had noted that, according to that Article, it had been asked, first, whether the 1960 Agreement had "the force of law in the relations" between Guinea-Bissau and Senegal, and then, "in the event of a negative answer to the first question, what is the course of the line delimiting the maritime territories" of the two countries. By referring to the conclusions that it had already reached, the Tribunal had noted that it had, in paragraphs 80 *et seq.* of the Award, found that the 1960 Agreement, in respect of which it had already determined the scope of its substantive validity, was "valid and

can be opposed to Senegal and to Guinea-Bissau". Having given an affirmative answer to the first question, and basing itself on the actual text of the Arbitration Agreement, the Tribunal had found as a consequence that it did not have to reply to the second question. The Court observed that that statement of reasoning, while succinct, was clear and precise, and concluded that the second contention of Guinea-Bissau had also to be dismissed.

(c) Thirdly, Guinea-Bissau challenged the validity of the reasoning thus adopted by the Tribunal on the issue whether it had been required to answer the second question:

(i) Guinea-Bissau first argued that the Arbitration Agreement, on its true construction, had required the Tribunal to answer the second question whatever might have been its reply to the first. In that connection, the Court first recalled that in the absence of any agreement to the contrary an international tribunal had the right to decide as to its own jurisdiction and had the power to interpret for that purpose the instruments which governed that jurisdiction. In the instant case, the Arbitration Agreement had confirmed that the Tribunal had the power to determine its own jurisdiction and to interpret the Agreement for that purpose. The Court observed that by its argument set out above, Guinea-Bissau was in fact criticizing the interpretation in the Award of the provisions of the Arbitration Agreement which had determined the Tribunal's jurisdiction, and proposing another interpretation. However, the Court did not have to enquire whether or not the Arbitration Agreement could, with regard to the Tribunal's competence, have been interpreted in a number of ways, and, if so, to consider which would have been preferable. The Court was of the opinion that by proceeding in that way it would be treating the request as an appeal and not as a *recours en nullité*. The Court could not act in that way in the case before it. The Court had simply to ascertain whether by rendering the disputed Award the Tribunal had acted in manifest breach of the competence conferred on it by the Arbitration Agreement, either by deciding in excess of, or by failing to exercise, its jurisdiction. Such manifest breach might have resulted from, for example, the failure of the Tribunal properly to apply the relevant rules of interpretation to the provisions of the Arbitration Agreement which had governed its competence. The Court observed that an arbitration agreement was an agreement between States which had to be interpreted in accordance with the general rules of international law governing the interpretation of treaties. It then recalled the principles of interpretation laid down by its case-law and observed that those principles were reflected in Articles 31 and 32 of the Vienna Convention on the Law of Treaties, which might in many respects be considered as a codification of existing customary international law on that point. The Court also noted that when States signed an arbitration agreement, they were concluding an agreement with a very specific object and purpose: to entrust an arbitration tribunal with the task of settling a dispute in

accordance with the terms agreed by the parties. In the performance of the task entrusted to it, the tribunal had to conform to those terms.

The Court observed that, in the instant case, Article 2 of the Arbitration Agreement had presented a first question concerning the 1960 Agreement, and then a second question relating to delimitation. A reply had to be given to the second question "in event of a negative answer to the first question". The Court noted that those last words, which had originally been proposed by Guinea-Bissau itself, were categorical. It went on to examine situations in which international judicial bodies had been asked to answer successive questions made conditional on each other or not. The Court noted that in fact in the present case the Parties could have used some such expression as that the Tribunal should answer the second question "taking into account" the reply given to the first, but they had not done so; they had directed that the second question should be answered only "in the event of a negative answer" to that first question. Relying on various elements of the text of the Arbitration Agreement, Guinea-Bissau nevertheless considered that the Tribunal had been required to delimit by a single line the whole of the maritime areas apertaining to one or the other State. As, for the reasons given by the Tribunal, its answer to the first question put in the Arbitration Agreement could not have led to a comprehensive delimitation, it followed, in Guinea-Bissau's view, that, notwithstanding the prefatory words to the second question, the Tribunal had been required to answer that question and to effect the overall delimitation desired by both Parties.

After recalling the circumstances in which the Arbitration Agreement had been drawn up, the Court noted that the two questions had a completely different subject-matter. The first concerned the issue whether an international agreement had the force of law in the relations between the Parties; the second was directed to a maritime delimitation in the event that that agreement did not have such force. Senegal had been counting on an affirmative answer to the first question, and concluded that the straight line on a bearing of 240°, adopted by the 1960 Agreement, would constitute the single line separating the whole of maritime areas of the two countries. Guinea-Bissau had been counting on a negative answer to the first question and had concluded that a single dividing line for the whole of the maritime areas of the two countries would have been fixed *ex novo* by the Tribunal in reply to the second question. The two States had intended to obtain a delimitation of the whole of their maritime areas by a single line. But Senegal had counted on achieving that result through an affirmative answer to the first question, and Guinea-Bissau through a negative answer to that question. The Court noted that no agreement had been reached between the Parties as to what should happen in the event of an affirmative answer leading only to a partial delimitation, and as to what might be the task of the Tribunal in such case, and that the *travaux préparatoires* accordingly confirmed the ordinary meaning of Article 2. The Court considered that that conclusion was not at variance with the circumstance that the Tribunal adopted as

its title "Arbitration Tribunal for the Determination of the Maritime Boundary: Guinea-Bissau/Senegal", or with its definition, in paragraph 27 of the Award, of the "sole object of the dispute" as being one relating to "the determination of the maritime boundary between the Republic of Senegal and the Republic of Guinea-Bissau, a question which they have not been able to settle by means of negotiation . . .". In the opinion of the Court, that title and that definition were to be read in the light of the Tribunal's conclusion, which the Court shared, that, while the Tribunal's mandate had included the making of a delimitation of all the maritime areas of the Parties, this had fallen to be done only under the second question and "in the event of a negative answer to the first question". The Court noted, in short, that although the two States had expressed in general terms in the Preamble of the Arbitration Agreement their desire to reach a settlement of their dispute, their consent thereto had only been given in the terms laid down by Article 2 of the Arbitration Agreement. The Court concluded that consequently the Tribunal had not acted in manifest breach of its competence to determine its own jurisdiction by deciding that it was not required to answer the second question except in the event of a negative answer to the first, and that the first argument had to be rejected.

(ii) Guinea-Bissau then argued that the answer in fact given by the Tribunal to the first question had been a partially negative answer and that this had sufficed to satisfy the prescribed condition for entering into the second question. Accordingly, and as was to be shown by the declaration of President Barberis, the Tribunal had, it was said, been both entitled and bound to answer the second question.

The Court observed that Guinea-Bissau could not base its arguments upon a form of words (that of President Barberis) which had not in fact been adopted by the Tribunal. The Tribunal had found, in reply to the first question, that the 1960 Agreement had the force of law in the relations between the Parties, and at the same time it defined the substantive scope of that Agreement. Such an answer had not permitted of a delimitation of the whole of the maritime areas of the two States, and a complete settlement of the dispute between them. It had achieved a partial delimitation. But that answer had nonetheless been both a complete and an affirmative answer to the first question. It accordingly had been possible for the Tribunal to find, without manifest breach of its competence, that its answer to the first question was not a negative one, and that it was therefore not competent to answer the second question. Therefore the Court rejected the contention of Guinea-Bissau that the entire Award was a nullity.

2. Absence of a map

Finally, Guinea-Bissau recalled that, according to Article 9, paragraph 2, of the Arbitration Agreement, the decision of the Tribunal was to "include the drawing of the boundary line on a map", and that no

such map was produced by the Tribunal. Guinea-Bissau contended that the Tribunal also did not give sufficient reasons for its decision on that point. The Award should, for those reasons, be held wholly null and void.

The Court considered that the reasoning of the Tribunal on this point was, once again, brief but sufficient to enlighten the Parties and the Court as to the reasons that had guided the Tribunal. It had found that the boundary line fixed by the 1960 Agreement was a loxodromic line drawn at 240° from the point of intersection of the prolongation of the land frontier and the low-water line, represented for that purpose by the Cape Roxo lighthouse. Since it had not replied to the second question, it had not had to define any other line. It had thus considered that there was no need to draw on a map a line which was common knowledge, and the definitive characteristics of which it had specified.

In view of the wording of Articles 2 and 9 of the Arbitration Agreement, and the positions taken by the Parties before the Tribunal, the Court noted that it was open to argument whether, in the absence of a reply to the second question, the Tribunal had been under an obligation to produce the map envisaged by the Arbitration Agreement. The Court had not however considered it necessary to enter into such a discussion. In the circumstances of the case, the absence of a map could not in any event constitute such an irregularity as would render the Award invalid. Accordingly the Court rejected this last argument of Guinea-Bissau.

V. Final observations (paras. 66-68)

The Court nonetheless took note of the fact that the Award had not brought about a complete delimitation of the maritime areas appertaining respectively to Guinea-Bissau and to Senegal. It however observed that that result was due to the wording of Article 2 of the Arbitration Agreement.

The Court moreover took note of the fact that on 12 March 1991 Guinea-Bissau had filed in the Registry of the Court a second Application requesting the Court to adjudge and declare:

"What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the arbitral 'award' of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal."

It also took note of the declaration made by the Agent of Senegal during the proceedings, according to which one solution

"would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it prove impossible to reach an agreement, to bring the matter before the Court".

Having regard to that Application and that declaration, and at the close of a long and difficult arbitral procedure and of the proceedings before the Court, the Court considered it highly desirable that the elements of the dispute that had not been settled by the Arbitral Award of 31 July 1989 should be resolved as soon as possible, as both Parties desired.

Operative paragraph (para. 69)

"THE COURT,

(1) Unanimously,

Rejects the submission of the Republic of Guinea-Bissau that the Arbitral Award given on 31 July 1989 by the Arbitration Tribunal established pursuant to the Agreement of 12 March 1985 between the Republic of Guinea-Bissau and the Republic of Senegal, is inexistent;

(2) By eleven votes to four,

Rejects the submission of the Republic of Guinea-Bissau that the Arbitral Award of 31 July 1989 is absolutely null and void;

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Lachs, Ago, Schwebel, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen; *Judge ad hoc* Mbaye.

AGAINST: *Judges* Aguilar Mawdsley, Weeramantry, Ranjeva; *Judge ad hoc* Thierry.

(3) By twelve votes to three,

Rejects the submission of the Republic of Guinea-Bissau that the Government of Senegal is not justified in seeking to require the Government of Guinea-Bissau to apply the Arbitral Award of 31 July 1989; and, on the submission to that effect of the Republic of Senegal, *finds* that the Arbitral Award of 31 July 1989 is valid and binding for the Republic of Senegal and the Republic of Guinea-Bissau, which have the obligation to apply it.

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Lachs, Ago, Schwebel, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Ranjeva; *Judge ad hoc* Mbaye.

AGAINST: *Judges* Aguilar Mawdsley, Weeramantry; *Judge ad hoc* Thierry."

Judge Tarassov and Judge *ad hoc* Mbaye each appended a declaration to the Judgment (*I.C.J. Reports* 1991, pp. 77-79 and 80); Vice-President Oda and Judges Lachs, Ni and Shahabuddeen appended separate opinions (*ibid.*, pp. 81-91, 92-95, 96-105 and 119); Judges Aguilar Mawdsley and Ranjeva appended a joint dissenting opinion, and Judge Weeramantry and Judge *ad hoc* Thierry each a dissenting opinion (*ibid.*, pp. 120-129, 130-174 and 175-185).

7. Territorial Dispute (Libyan Arab Jamahiriya/Chad)

On 31 August 1990 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court a notification of an agreement between that Government and the Government of the Republic of Chad, entitled "Framework Agreement on the Peaceful Settlement of the Territorial Dispute between the Great Socialist People's Libyan Arab Jamahiriya and the Republic of Chad", concluded in Algiers on 31 August 1989.

The "Framework Agreement" provides, in Article 1, that

"The two Parties undertake to settle first their territorial dispute by all political means, including conciliation, within a period of approximately one year, unless the Heads of State otherwise decide"

and in Article 2, that

"In the absence of a political settlement of their territorial dispute, the two Parties undertake:

(a) to submit the dispute to the International Court of Justice . . .".

According to the notification, the Court would be required:

"In further implementation of the Accord-Cadre [Framework Agreement], and taking into account the territorial dispute between the Parties, to decide upon the limits of their respective territories in accordance with the rules of international law applicable in the matter."

On 3 September 1990, the Republic of Chad filed in the Registry of the Court an Application instituting proceedings against the Socialist People's Libyan Arab Jamahiriya, based on Article 2 (a) of the "Framework Agreement" and subsidiarily on Article 8 of the Franco-Libyan Treaty of Friendship and Good Neighbourliness of 10 August 1955.

By that Application the Republic of Chad

"respectfully requests the Court to determine the course of the frontier between the Republic of Chad and the Libyan Arab Jamahiriya, in accordance with the principles and rules of international law applicable in the matter as between the Parties".

Subsequently, the Agent of Chad, by a letter of 28 September 1990, informed the Court, *inter alia*, that his Government had noted that "its claim coincides with that contained in the notification addressed to the Court on 31 August 1990 by the Libyan Arab Jamahiriya", and considered that

"those two notifications relate to one single case, referred to the Court in application of the Algiers Agreement, which constitutes the Special Agreement, the principal basis of the Court's jurisdiction to deal with the matter".

At a meeting between the President of the Court and the representatives of the Parties held on 24 October 1990 it was agreed between the Agents that the proceedings in the present case had in effect been instituted by two successive notifications of the Special Agreement constituted by the "Framework Agreement" of 31 August 1989, that filed by the Libyan Arab Jamahiriya on 31 August 1990, and the communication from the Republic of Chad filed on 3 September 1990 read in conjunction with the letter from the Agent of Chad of 28 September 1990, and that the Court should determine the procedure in the case on that basis, pursuant to Article 46, paragraph 2, of the Rules of Court.

Having ascertained the views of the Parties, the Court decided by an Order of 26 October 1990 (*I.C.J. Reports 1990*, p. 149), that, as provided in Article 46, paragraph 2, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 26 August 1991 as the time-limit for the Memorials. Both Memorials were filed within the prescribed time-limit.

Chad chose Mr. Georges M. Abi-Saab and the Libyan Arab Jamahiriya Mr. José Sette-Camara to sit as judges *ad hoc*.

On 26 August 1991 (*I.C.J. Reports 1991*, p. 44), the President of the Court, having ascertained the views of the Parties, fixed 27 March 1992 as the time-limit for the filing of the Counter-Memorials. Both Counter-Memorials were duly filed within the prescribed time-limit.

By an Order of 14 April 1992 (*I.C.J. Reports 1992*, p. 219), the Court, having ascertained the views of the Parties, decided to authorize the presentation by each Party of a Reply within the same time-limit, and fixed 14 September 1992 as the time-limit for those Replies.

8. *East Timor (Portugal v. Australia)*

On 22 February 1991 the Government of the Portuguese Republic filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in a dispute concerning "certain activities of Australia with respect to East Timor".

In order to establish the basis of the Court's jurisdiction, Portugal referred, in its Application, to the Declarations made by the two States under Article 36, paragraph 2, of the Statute of the Court.

It claimed that Australia, by negotiating, with Indonesia, an "agreement relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap'", signed on 11 December 1989, by the "ratification, and the initiation of the performance" of that agreement, by the "related internal legislation", by the "negotiation of the delimitation of that shelf", and by the "exclusion of any negotiation on those matters with Portugal", had caused "particularly serious legal and moral damage to the people of East Timor and to Portugal, which will become material damage also if the exploitation of hydrocarbon resources begins".

Portugal requested the Court:

“(1) To adjudge and declare that, first, the rights of the people of East Timor to self-determination, to territorial integrity and unity (as defined in paragraphs 5 and 6 of the present Application) and to permanent sovereignty over its wealth and natural resources and, secondly, the duties, powers and rights of Portugal as the administering Power of the Territory of East Timor are opposable to Australia, which is under an obligation not to disregard them, but to respect them.

(2) To adjudge and declare that Australia, inasmuch as in the first place it has negotiated, concluded and initiated performance of the agreement referred to in paragraph 18 of the statement of facts, has taken internal legislative measures for the application thereof, and is continuing to negotiate, with the State party to that agreement, the delimitation of the continental shelf in the area of the ‘Timor Gap’; and inasmuch as it has furthermore excluded any negotiation with the administering Power with respect to the exploration and exploitation of the continental shelf in that same area; and, finally, inasmuch as it contemplates exploring and exploiting the subsoil of the sea in the ‘Timor Gap’ on the basis of a plurilateral title to which Portugal is not a party (each of these facts sufficing on its own):

- (a) has infringed and is infringing the right of the people of East Timor to self-determination, to territorial integrity and unity and its permanent sovereignty over its natural wealth and resources, and is in breach of the obligation not to disregard but to respect that right, that integrity and that sovereignty;
- (b) has infringed and is infringing the powers of Portugal as the administering Power of the Territory of East Timor, is impeding the fulfilment of its duties to the people of East Timor and to the international community, is infringing the right of Portugal to fulfil its responsibilities and is in breach of the obligation not to disregard but to respect those powers and duties and that right;
- (c) is contravening Security Council resolutions 384 and 389 and, as a consequence, is in breach of the obligation to accept and carry out Security Council resolutions laid down by Article 25 of the Charter of the United Nations and, more generally, is in breach of the obligation incumbent on member States to co-operate in good faith with the United Nations;

(3) To adjudge and declare that, inasmuch as it has excluded and is excluding any negotiation with Portugal as the administering Power of the Territory of East Timor, with respect to the exploration and exploitation of the continental shelf in the area of the ‘Timor Gap’, Australia has failed and is failing in its duty to negotiate in order to harmonize the respective rights in the event of a conflict of rights or of claims over maritime areas.

(4) To adjudge and declare that, by the breaches indicated in

paragraphs 2 and 3 of the present submissions, Australia has incurred international responsibility and has caused damage, for which it owes reparation to the people of East Timor and to Portugal, in such form and manner as may be indicated by the Court.

(5) To adjudge and declare that Australia is bound, in relation to the people of East Timor, to Portugal and to the international community, to cease from all breaches of the rights and international norms referred to in paragraphs 1, 2 and 3 of the present submissions and in particular, until such time as the people of East Timor shall have exercised its right to self-determination, under the conditions laid down by the United Nations:

- (a) to refrain from any negotiation, signature or ratification of any agreement with a State other than the administering Power concerning the delimitation, and the exploration and exploitation, of the continental shelf, or the exercise of jurisdiction over that shelf, in the area of the 'Timor Gap';
- (b) to refrain from any act relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap' or to the exercise of jurisdiction over that shelf, on the basis of any plurilateral title to which Portugal, as the administering Power of the Territory of East Timor, is not a party."

By an Order of 3 May 1991 (*I.C.J. Reports 1991*, p. 9), the President of the Court, having ascertained the views of the Parties at a meeting with their Agents held on 2 May 1991, fixed the following time-limits: 18 November 1991 for the filing of the Portuguese Memorial and 1 June 1992 for the Australian Counter-Memorial. Both the Memorial and the Counter-Memorial were filed within the prescribed time-limits.

Portugal chose Mr. António de Arruda Ferrer-Correia and Australia Sir Ninian Stephen to sit as judges *ad hoc*.

By an Order of 19 June 1992 (*I.C.J. Reports 1992*, p. 228), the Court, having ascertained the views of the Parties, fixed 1 December 1992 as the time-limit for the filing of a Reply by Portugal and 1 June 1993 for the filing of a Rejoinder by Australia.

9. *Maritime Delimitation between Guinea-Bissau and Senegal* (*Guinea-Bissau v. Senegal*)

On 12 March 1991, the Government of the Republic of Guinea-Bissau filed in the Registry of the Court an Application instituting proceedings against the Republic of Senegal in a dispute concerning the delimitation of all the maritime territories between the two States. Guinea-Bissau cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Guinea-Bissau recalled that, by an Application dated 23 August 1989, it referred to the Court a dispute concerning the existence and validity of the Arbitral Award made on 31 July 1989 by

the Arbitration Tribunal formed to determine the maritime boundary between the two States.

Guinea-Bissau claimed that the objective of the request laid before the Arbitration Tribunal was the delimitation of the maritime territories appertaining respectively to one and the other State. According to Guinea-Bissau, the decision of the Arbitration Tribunal of 31 July 1989, however, did not make it possible to draw a definitive delimitation of all the maritime areas over which the Parties had rights. Moreover, whatever the outcome of the proceedings pending before the Court, a real and definitive delimitation of all the maritime territories between the two States would still not be realized.

The Government of Guinea-Bissau asked the Court to adjudge and declare:

"What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the Arbitral 'award' of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal."

In its Judgment of 12 November 1991 in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)* (see above, p. 166) the Court took note of the filing of a second Application but added:

"67. . . .

It has also taken note of the declaration made by the Agent of Senegal in the present proceedings, according to which one solution 'would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it prove impossible to reach an agreement, to bring the matter before the Court'.

68. Having regard to that Application and that declaration, and at the close of a long and difficult arbitral procedure and of these proceedings before the Court, the Court considers it highly desirable that the elements of the dispute that were not settled by the Arbitral Award of 31 July 1989 be resolved as soon as possible, as both Parties desire."

10. *Passage through the Great Belt (Finland v. Denmark)*

On 17 May 1991 the Republic of Finland filed in the Registry of the Court an Application instituting proceedings against the Kingdom of Denmark in respect of a dispute concerning the question of passage of oil-rigs through the Great Belt (Storebælt – one of the three straits linking the Baltic to the Kattegat and thence to the North Sea). Finland cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application Finland contended that there is no foundation in international law for the unilateral exclusion by Denmark, through the projected construction of a "high-level bridge . . . 65 metres above mean sea level", of the passage between the Baltic and the North Sea by vessels such as drill ships and oil rigs or other existing or reasonably foreseeable ships with a height of 65 metres or above to and from Finnish shipyards and ports. Such exclusion allegedly violated Finland's rights in respect of free passage through the Great Belt as established by the relevant conventions and customary international law. Finland recognized that Denmark is fully entitled, as the territorial sovereign, to take measures to improve its internal and international traffic connections, but contended that Denmark's entitlement to take such measures is necessarily limited by the established rights and interests of all States, and of Finland in particular, in the maintenance of the legal régime of free passage through the Danish straits. In Finland's view, these rights had been ignored by Denmark's refusal to enter into negotiations with Finland in order to find a solution and by its insistence that the planned bridge project be completed without modification.

Accordingly, the Republic of Finland, reserving its right to modify or to add to its submissions and in particular its right to claim compensation for any damage or loss arising from the bridge project, asked the Court to adjudge and declare:

- “(a) that there is a right of free passage through the Great Belt which applies to all ships entering and leaving Finnish ports and shipyards;
- (b) that this right extends to drill ships, oil rigs and reasonably foreseeable ships;
- (c) that the construction of a fixed bridge over the Great Belt as currently planned by Denmark would be incompatible with the right of passage mentioned in subparagraphs (a) and (b) above;
- (d) that Denmark and Finland should start negotiations, in good faith, on how the right of free passage, as set out in subparagraphs (a) to (c) above, shall be guaranteed.”

On 23 May 1991 Finland filed in the Registry a request for the indication of provisional measures, contending that “construction work for the East Channel bridge would prejudice the very outcome of the dispute”; that “the object of the Application relates precisely to the right of passage which the completion of the bridge project in its planned form will effectively deny”; and that “in particular, the continuation of the construction work prejudices the negotiating result which the Finnish submissions in the Application aim to attain”.

Finland accordingly requested the Court to indicate the following provisional measures:

- “(1) Denmark should, pending the decision by the Court on the

merits of the present case, refrain from continuing or otherwise proceeding with such construction works in connection with the planned bridge project over the East Channel of the Great Belt as would impede the passage of ships, including drill ships and oil rigs, to and from Finnish ports and shipyards; and

(2) Denmark should refrain from any other action that might prejudice the outcome of the present proceedings."

Finland chose Mr. Bengt Broms and Denmark Mr. Paul Henning Fischer to sit as judges *ad hoc*.

Between 1 and 5 July 1991, the Court, at six public sittings, heard the oral observations of both Parties on the request for provisional measures.

At a public sitting held on 29 July 1991, the Court read the Order on the request for provisional measures filed by Finland (*I.C.J. Reports 1991*, p. 12), in which it found that "the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures". Judge Tarassov appended a declaration (*I.C.J. Reports 1991*, pp. 22-24), and Vice President Oda, Judge Shahabuddeen and Judge *ad hoc* Broms appended separate opinions to the Order (*ibid.*, pp. 25-27, 28-36 and 37-39).

By an Order of 29 July 1991 (*I.C.J. Reports 1991*, p. 41), the President of the Court, having ascertained the views of the Parties at a meeting with their Agents held on the same day, fixed the following time-limits: 30 December 1991 for the filing of the Memorial of Finland and 1 June 1992 for the filing of the Counter-Memorial of Denmark. Both the Memorial and the Counter-Memorial were filed within the prescribed time-limits.

11. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

"in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of

Qatar, invalid, beyond the power of the British Government in relation to the two States, and not binding on Qatar.

With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the sea-bed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was expressed that the shoals should not be considered to be islands having territorial waters. Qatar had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'a: Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the sea-bed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It had been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the above-mentioned delimitation by the British Government) of a new line delimiting the sea-bed boundary of the two States. Qatar based its claims with respect to delimitation on customary international law and applicable local practices and customs.

The State of Qatar therefore requested the Court:

- "I. To adjudge and declare in accordance with international law
 - (A) that the State of Qatar has sovereignty over the Hawar islands; and
 - (B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals;
- and
- II. With due regard to the line dividing the sea-bed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of sea-bed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

In the Application Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commit-

ment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991 Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (*I.C.J. Reports 1991*, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

By an Order of 26 June 1992 (*I.C.J. Reports 1992*, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain.

Qatar has chosen Mr. José María Ruda and Bahrain Mr. Nicolas Valticos to sit as judges *ad hoc*.

*12, 13. Questions of Interpretation and Application of the 1971
Montreal Convention arising from the Aerial Incident at Lockerbie
(Libyan Arab Jamahiriya v. United Kingdom) and Questions of
Interpretation and Application of the 1971 Montreal Convention arising
from the Aerial Incident at Lockerbie
(Libyan Arab Jamahiriya v. United States of America)*

On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the Government of the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, with having caused a bomb to be placed aboard Pan Am flight 103. The bomb subsequently

exploded, causing the aeroplane to crash, and all persons aboard were killed.

Libya pointed out that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been able to agree upon the organization of an arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

Libya requested the Court to adjudge and declare as follows:

- (a) that Libya has fully complied with all of its obligations under the Montreal Convention;
- (b) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and
- (c) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

- (a) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and
- (b) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated *inter alia* that

"taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

Libya chose Mr. Ahmed S. El-Kosheri to sit as judge *ad hoc*. He made the solemn declaration required by the Statute and Rules of Court on 26 March 1992, at the opening of the hearings on the requests for the indication of provisional measures (see below, p. 199, under (d)).

At that opening, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision.

At five public sittings held on 26, 27 and 28 March 1992, both Parties in each of the two cases presented oral arguments on the request for the indication of provisional measures. A Member of the Court put questions to both Agents in each of the two cases and the Judge *ad hoc*. He put a question to the Agent of Libya.

At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (*I.C.J. Reports 1992*, pp. 3 and 114). Summaries of the Orders are given below, followed by the text of the operative paragraph.

1. Summary of the Order in the case of the Libyan Arab Jamahiriya v. United Kingdom

In its Order, the Court recalled that on 3 March 1992 the Libyan Arab Jamahiriya had instituted proceedings against the United Kingdom in respect of "a dispute . . . between Libya and the United Kingdom over the interpretation or application of the Montreal Convention" of 23 September 1971, a dispute arising from the aerial incident which had occurred over Lockerbie, Scotland, on 21 December 1988 and had led, in November 1991, to the Lord Advocate of Scotland charging two Libyan nationals with, *inter alia*, having "caused a bomb to be placed aboard [Pan Am flight 103] . . . which bomb had exploded causing the aeroplane to crash".

The Court then recited the history of the case. It referred to the allegations and submissions made by Libya in its Application, and in its request for the indication of provisional measures.

The Court further referred to the observations and submissions presented by both Libya and the United Kingdom at the public hearings on the request for the indication of provisional measures held on 26 and 28 March 1992.

The Court then took note of the joint declaration issued on 27 November 1991 by the United Kingdom and the United States of America following on the charges brought by the Lord Advocate of Scotland against the two Libyan nationals in connection with the destruction of Pan Am flight 103, and which was worded as follows:

"The British and American Governments today declare that the Government of Libya must:

- surrender for trial all those charged with the crime; and accept responsibility for the actions of Libyan officials;
- disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers;
- pay appropriate compensation.

We expect Libya to comply promptly and in full."

The Court also took note of the fact that the subject of that declaration had been subsequently considered by the United Nations Security Council, which on 21 January 1992 had adopted resolution 731 (1992), of which the Court quoted *inter alia* the following passages:

"Deeply concerned over the results of investigations, which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by France, . . . the United Kingdom of Great Britain and Northern Ireland . . . and the United States of America . . . in connection with the legal procedures related to the attacks carried out against Pan American flight 103 and Union de transports aériens flight 772;

2. *Strongly deplores* the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan American flight 103 and Union de transports aériens flight 772;

3. *Urges* the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism."

The Court further noted that on 31 March 1992 (three days after the

close of the hearings) the Security Council had adopted resolution 748 (1992) stating *inter alia* that the Security Council:

.....
Deeply concerned that the Libyan Government has still not provided a full and effective response to the requests in its resolution 731 (1992) of 21 January 1992,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

.....
Determining, in this context, that the failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992) constitute a threat to international peace and security,

.....
Acting under Chapter VII of the Charter,

1. *Decides* that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests contained in documents S/23306, S/23308 and S/23309;

2. *Decides also* that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. *Decides* that, on 15 April 1992 all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above;

.....
 7. *Calls upon* all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to 15 April 1992."

The Court observed that document S/23308, to which reference had been made in resolution 748 (1992), had included the demands made by the United Kingdom and the United States of America in their joint declaration of 27 November 1991, as set out above.

After having referred to the observations on Security Council resolution 748 (1992) presented by both Parties in response to the Court's invitation, the Court proceeded to state its findings in the following terms:

"38. Whereas the Court, in the context of the present proceedings on a request for provisional measures, has, in accordance with

Article 41 of the Statute, to consider the circumstances drawn to its attention as requiring the indication of such measures, but cannot make definitive findings either of fact or of law on the issues relating to the merits, and the right of the Parties to contest such issues at the stage of the merits must remain unaffected by the Court's decision;

39. Whereas both Libya and the United Kingdom, as Members of the United Nations, are obliged to accept and carry out the decisions of the Security Council in accordance with Article 25 of the Charter; whereas the Court, which is at the stage of proceedings on provisional measures, considers that *prima facie* this obligation extends to the decision contained in resolution 748 (1992); and whereas, in accordance with Article 103 of the Charter, the obligations of the Parties in that respect prevail over their obligations under any other international agreement, including the Montreal Convention;

40. Whereas the Court, while thus not at this stage called upon to determine definitively the legal effect of Security Council resolution 748 (1992), considers that, whatever the situation previous to the adoption of that resolution, the rights claimed by Libya under the Montreal Convention cannot now be regarded as appropriate for protection by the indication of provisional measures;

41. Whereas, furthermore, an indication of the measures requested by Libya would be likely to impair the rights which appear *prima facie* to be enjoyed by the United Kingdom by virtue of Security Council resolution 748 (1992);

42. Whereas, in order to pronounce on the present request for provisional measures, the Court is not called upon to determine any of the other questions which have been raised before it in the present proceedings, including the question of its jurisdiction to entertain the merits of the case; and whereas the decision given in these proceedings in no way prejudices any such question, and leaves unaffected the rights of the Government of Libya and the Government of the United Kingdom to submit arguments in respect of any of these questions;

43. For these reasons,

THE COURT,

By eleven votes to five,

Finds that the circumstances of the case are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

IN FAVOUR: *Vice-President* Oda, *Acting President*; *President* Sir Robert Jennings; *Judges* Lachs, Ago, Schwebel, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley;

AGAINST: *Judges* Bedjaoui, Weeramantry, Ranjeva, Ajibola; *Judge ad hoc* El-Koshi.

II. Summary of the Order in the case of the Libyan Arab Jamahiriya v. United States of America

In its Order, the Court recalled that on 3 March 1992 the Libyan Arab Jamahiriya had instituted proceedings against the United States in respect of "a dispute . . . between Libya and the United States over the interpretation or application of the Montreal Convention" of 23 September 1971, a dispute arising from the aerial incident which had occurred over Lockerbie, Scotland, on 21 December 1988 and had led to a Grand Jury of the United States District Court for the District of Columbia, indicting, on 14 November 1991, two Libyan nationals, charging, *inter alia*, that they had "caused a bomb to be placed aboard [Pan Am flight 103] . . . which bomb had exploded causing the aeroplane to crash".

The Court then recited the history of the case. It referred to the allegations and submissions made by Libya in its Application, and in its request for the indication of provisional measures.

The Court further referred to the observations and submissions presented by both Libya and the United States at the public hearings on the request for the indication of provisional measures held on 26, 27 and 28 March 1992.

The Court then took note of the joint declaration issued on 27 November 1991 by the United States of America and the United Kingdom following on the charges brought by a Grand Jury of the United States District Court for the District of Columbia against the two Libyan nationals in connection with the destruction of Pan Am flight 103, and which was worded as follows:

"The British and American Governments today declare that the Government of Libya must:

- surrender for trial all those charged with the crime; and accept responsibility for the actions of Libyan officials;
- disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers;
- pay appropriate compensation.

We expect Libya to comply promptly and in full."

The Court also took note of the fact that the subject of that declaration had been subsequently considered by the United Nations Security Council, which on 21 January 1992 had adopted resolution 731 (1992), of which the Court quoted *inter alia* the following passages:

"Deeply concerned over the results of investigations, which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by France, . . . the United Kingdom of Great Britain and Northern Ireland . . . and the United States of America . . . in connection with the legal procedures related to the attacks

carried out against Pan American flight 103 and Union de transports aériens flight 772,

2. *Strongly deplores* the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan American flight 103 and Union de transports aériens flight 772;

3. *Urges* the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;"

The Court further noted that on 31 March 1992 (three days after the close of the hearings) the Security Council had adopted resolution 748 (1992) stating *inter alia* that the Security Council:

Deeply concerned that the Libyan Government has still not provided a full and effective response to the requests in its resolution 731 (1992) of 21 January 1992.

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Determining, in this context, that the failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992) constitute a threat to international peace and security,

Acting under Chapter VII of the Charter,

1. *Decides* that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests contained in documents S/23306, S/23308 and S/23309;

2. *Decides also* that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. *Decides* that, on 15 April 1992 all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above;

7. *Calls upon* all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or

imposed by any international agreement or any contract entered into or any licence or permit granted prior to 15 April 1992."

The Court observed that document S/23308, to which reference had been made in resolution 748 (1992), had included the demands made by the United States of America and the United Kingdom in their joint declaration of 27 November 1991, as set out above.

After having referred to the observations on Security Council resolution 748 (1992) presented by both Parties in response to the Court's invitation (as well as by the Agent of the United States in an earlier communication), the Court proceeded to state its findings in the following terms:

"41. Whereas, the Court, in the context of the present proceedings on a request for provisional measures, has, in accordance with Article 41 of the Statute, to consider the circumstances drawn to its attention as requiring the indication of such measures, but cannot make definitive findings either of fact or of law on the issues relating to the merits, and the right of the Parties to contest such issues at the stage of the merits must remain unaffected by the Court's decision;

42. Whereas both Libya and the United States, as Members of the United Nations, are obliged to accept and carry out the decisions of the Security Council in accordance with Article 25 of the Charter; whereas the Court, which is at the stage of proceedings on provisional measures, considers that *prima facie* this obligation extends to the decision contained in resolution 748 (1992); and whereas, in accordance with Article 103 of the Charter, the obligations of the Parties in that respect prevail over their obligations under any other international agreement, including the Montreal Convention;

43. Whereas the Court, while thus not at this stage called upon to determine definitively the legal effect of Security Council resolution 748 (1992), considers that, whatever the situation previous to the adoption of that resolution, the rights claimed by Libya under the Montreal Convention cannot now be regarded as appropriate for protection by the indication of provisional measures;

44. Whereas, furthermore, an indication of the measures requested by Libya would be likely to impair the rights which appear *prima facie* to be enjoyed by the United States by virtue of Security Council resolution 748 (1992);

45. Whereas, in order to pronounce on the present request for provisional measures, the Court is not called upon to determine any of the other questions which have been raised before it in the present proceedings, including the question of its jurisdiction to entertain the merits of the case; and whereas the decision given in these proceedings in no way prejudices any such question, and leaves unaffected the rights of the Government of Libya and the Govern-

ment of the United States to submit arguments in respect of any of these questions;

46. For these reasons,

THE COURT,

By eleven votes to five,

Finds that the circumstances of the case are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

IN FAVOUR: Vice-President Oda, Acting President: President Sir Robert Jennings; Judges Lachs, Ago, Schwebel, Ni, Evensen, Tarassov, Guillaume, Shahabuddeen, Aguilar Mawdsley;

AGAINST: Judges Bedjaoui, Weeramantry, Ranjeva, Ajibola; Judge ad hoc El-Kosheri."

Acting President Oda (*I.C.J. Reports 1992*, pp. 17-19 and 129-131) and Judge Ni (*ibid.*, pp. 20-23 and 132-135) each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar Mawdsley a joint declaration (*ibid.*, pp. 24-25 and 136-137). Judges Lachs (*ibid.*, pp. 26-27 and 138-139) and Shahabuddeen (*ibid.*, pp. 28-32 and 140-142) appended separate opinions; and Judges Bedjaoui (*ibid.*, pp. 33-49 and 143-159), Weeramantry (*ibid.*, pp. 50-71 and 160-181), Ranjeva (*ibid.*, pp. 72-77 and 182), Ajibola (*ibid.*, pp. 78-93 and 183-198) and Judge ad hoc El-Kosheri (*ibid.*, pp. 94-112 and 199-217) appended dissenting opinions to the Orders.

By Orders of 19 June 1992 (*I.C.J. Reports 1992*, pp. 231 and 234), the Court, having ascertained the views of the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorial of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America.

B. CONTENTIOUS CASE BEFORE A CHAMBER

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)

On 11 December 1986 El Salvador and Honduras jointly notified to the Court a Special Agreement concluded between them on 24 May 1986, whereby a dispute referred to as the land, island and maritime frontier dispute would be submitted for decision to a chamber which the Parties would request the Court to form under Article 26, paragraph 2, of the Statute, to consist of three Members of the Court and two judges *ad hoc* chosen by each Party.

By an Order of 8 May 1987 (*I.C.J. Reports 1987*, p. 10), the Court, after having received such a request, constituted a Chamber with the following composition: Judges Shigeru Oda, José Sette-Camara and Sir Robert Jennings; Judges *ad hoc* Nicolas Valticos and Michel Virally, chosen respectively by El Salvador and Honduras. The Chamber elected Judge José Sette-Camara to be its President.

By an Order of 13 December 1989 (*I.C.J. Reports 1989*, p. 162), adopted unanimously, the Court took note of the death of Judge *ad hoc* Virally, of the nomination on 9 February 1989 by Honduras of Mr. Santiago Torres Bernárdez to replace him and of a number of communications from the Parties, noted that it appeared that El Salvador had no objection to the choice of Mr. Torres Bernárdez, and that no objection appeared to the Court itself, and declared the Chamber to be composed as follows: Judges José Sette-Camara (President of the Chamber), Shigeru Oda and Sir Robert Jennings; Judges *ad hoc* Nicolas Valticos and Santiago Torres Bernárdez. Judge Shahabuddeen appended a separate opinion to the Order (*ibid.*, pp. 165-172).

The written proceedings in the case have taken the following course: Each Party filed a Memorial within the time-limit of 1 June 1988 which had been fixed therefor by the Court after ascertainment of the Parties' views. By virtue of their Special Agreement, the Parties requested that the written proceedings also consist of Counter-Memorials and Replies, and the Chamber authorized the filing of such pleadings and fixed time-limits. At the successive requests of the Parties, the President of the Chamber, by Orders made on 12 January 1989 and 13 December 1989 (*ibid.*, pp. 3 and 129), extended those time-limits to 10 February 1989 for the Counter-Memorials and 12 January 1990 for the Replies. Each Party's Counter-Memorial and Reply were filed within the prescribed time-limits.

On 17 November 1989 the Republic of Nicaragua addressed to the Court an Application under Article 62 of the Statute for permission to intervene in the case. Nicaragua stated that it had no intention of intervening in respect of the dispute concerning the land boundary between El Salvador and Honduras, its object being:

"First, generally to protect the legal rights of the Republic of Nicaragua in the Gulf of Fonseca and the adjacent maritime areas by all legal means available.

Secondly, to intervene in the proceedings in order to inform the Court of the nature of the legal rights of Nicaragua which are in issue in the dispute. This form of intervention would have the conservative purpose of seeking to ensure that the determinations of the Chamber did not trench upon the legal rights and interests of the Republic of Nicaragua, and Nicaragua intends to subject itself to the binding effect of the decision to be given."

Nicaragua further expressed the view that its request for permission to

intervene was a matter exclusively within the procedural mandate of the full Court.

By an Order of 28 February 1990 (*I.C.J. Reports 1990*, p. 3), adopted by 12 votes to 3, the Court, having considered the observations submitted by the Parties on that last point and the Applicant's comments thereon, concluded that it was sufficiently informed of the views of the States concerned, without there being any need for oral proceedings, and found that it was for the Chamber formed to deal with the case to decide whether the Application for permission to intervene should be granted. Judge Oda appended a declaration (*I.C.J. Reports 1990*, pp. 7-8), and Judges Elias, Tarassov and Shahabuddeen dissenting opinions (*ibid.*, pp. 9-10, 11-17 and 18-62) to the Order.

Between 5 and 8 June 1990 the Chamber, at five public sittings, heard oral arguments on the Nicaraguan Application for permission to intervene, presented on behalf of Nicaragua, El Salvador and Honduras.

At a public sitting held on 13 September 1990, the Chamber delivered its Judgment on the Application by Nicaragua for permission to intervene (*ibid.*, p. 92) in which it found, unanimously, that the Republic of Nicaragua had shown that it had an interest of a legal nature which might be affected by part of the Judgment of the Chamber on the merits in the present case, namely its decision on the legal régime of the waters of the Gulf of Fonseca, but had not shown such an interest which might be affected by any decision which the Chamber might be required to make concerning the delimitation of those waters, or any decision as to the legal situation of the maritime spaces outside the Gulf, or any decision as to the legal situation of the islands in the Gulf. Accordingly, the Chamber decided that the Republic of Nicaragua was permitted to intervene in the case, pursuant to Article 62 of the Statute, to the extent, in the manner and for the purposes set out in the Judgment, but not further or otherwise. Judge Oda appended a separate opinion to the Judgment (*ibid.*, pp. 138-144).

By an Order of 14 September 1990 (*ibid.*, p. 146), the President of the Chamber, having ascertained the views of the Parties and of the intervening State, fixed 14 December 1990 as the time-limit for the submission by Nicaragua of a written statement and 14 March 1991 as the time-limit within which the Parties might, if they so desired, furnish their written observations on the written statement of Nicaragua. Both the written statement by Nicaragua and the written observations thereon by the two Parties were filed within the prescribed time-limits.

At 50 public sittings, held between 15 April and 14 June 1991, the Chamber heard oral arguments by the two Parties, as well as Nicaragua's observations with respect to the subject-matter of its intervention and the two Parties' observations thereon. It also heard a witness, presented by El Salvador.

At the time of preparation of this *Yearbook*, the Chamber is deliberating on its Judgment.

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. Organization of the Court

(a) Installation of a new judge

(Statute, Art. 20; Rules, Art. 4)

On 26 March 1992 the Court held a special public sitting to enable the new judge who had been elected to fill the vacancy left by the death in office of another judge to make the solemn declaration (see Chap. I, p. 9, above).

(b) The Presidency

(Statute, Art. 48; Rules, Arts. 31, 32, 44, 46, 48 and 74, paras. 3 and 4)

The President of the Court made Orders fixing time-limits in the cases concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* (see above, p. 179), *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (see above, p. 186) and *Certain Phosphate Lands in Nauru (Nauru v. Australia)* (see above, p. 164). He also made two Orders extending the time-limit for written observations and submissions on the preliminary objections in the case concerning the *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)* (see above, p. 154). The President further made an Order on the removal from the list of the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* (see above, p. 150).

In the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, the President of the Court, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, exercise the functions of the Presidency, which were exercised by the Vice-President. As the President decided that it would be inappropriate, as well as inconvenient for all concerned, if he were to try to preside, as in theory he supposed he might, in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, the Vice-President presided in that case also. The Vice-President thus fixed the date for hearings on the requests for indication of provisional measures in the above two cases.

(c) Non-participation of a judge in a case

(Statute, Art. 17)

In the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, one of the Members of the Court explained to the President that he had been Chairman of a Commission of Inquiry which had reported on matters which might be pertinent in the case and that he would therefore take no part in the case.

(d) *Judges ad hoc*

(Statute, Arts. 20 and 31; Rules, Arts. 4 and 8)

In the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya v. Chad)* (see above, p. 179) and in the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* (see above, p. 188) and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)* (see above, p. 188), Libya exercised the power conferred by Article 31 of the Statute to choose a judge *ad hoc*¹. The same person was chosen in the latter two cases; he made the solemn declaration required by the Statute and Rules of Court at the first public sitting held by the Court on the requests for indication of provisional measures.

The power to choose a judge *ad hoc* was also exercised by Qatar and by Bahrain in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (see above, p. 186) and by Portugal and Australia in the case concerning *East Timor (Portugal v. Australia)* (see above, p. 181).

2. Competence of the Court

Preliminary objections

(Rules, Art. 79)

In the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, Australia filed preliminary objections (see *I.C.J. Yearbook 1990-1991*, p. 148). On 26 June 1992 the Court delivered its Judgment on the Preliminary Objections, by which it rejected all those objections, with one exception; since the objection upheld related only to one specific head of claim, the Court found that it had jurisdiction to entertain the Application and that the claim, with that exception, was admissible.

3. Contentious Procedure

(a) *Institution of proceedings*

(Statute, Arts. 34, para. 3, and 40; Rules, Arts. 38, 40, 42 and 69, para. 3)

Proceedings in each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)* were instituted by an Application. The Registrar proceeded with the requisite communications, in accordance

¹ During the period covered in *I.C.J. Yearbook 1990-1991*, it was Chad, not Libya (as erroneously mentioned in *ibid.*, p. 175) that exercised the power to choose a judge *ad hoc*.

with Article 40 of the Statute. As it appeared on the face of the Applications that the construction of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, was in question in the two cases, the Registrar, pursuant to the provisions of Articles 34, paragraph 3, of the Statute and 69, paragraph 3, of the Rules of Court, also notified the International Civil Aviation Organization.

(b) *Preliminary phase of proceedings*

(Statute, Art. 48; Rules, Arts. 31, 44 and 48)

In the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar v. Bahrain*), the Respondent contested the basis of jurisdiction invoked by the Applicant. The President of the Court, after a meeting with the representatives of the Parties, at which it was agreed that questions of jurisdiction and admissibility should be separately determined before any proceedings on the merits, decided that the written proceedings should first be addressed to the questions of the jurisdiction of the Court to entertain the dispute and of the admissibility of the Application and fixed time-limits for the filing of a Memorial and Counter-Memorial accordingly (see above, p. 186).

(c) *Fixing of time-limits*

(Statute, Art. 48; Rules, Arts. 31, 44 and 45)

The Court fixed time-limits in the cases concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* (see above, p. 179), and *East Timor (Portugal v. Australia)* (see above, p. 181), in the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)* (see above, p. 195), and in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (see above, p. 186). (For the fixing and extension of time-limits by the President of the Court, see above, under 1 (b).)

(d) *Filing of pleadings*

In the cases concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)* (see above, pp. 152-153), the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* (see above, p. 179), *East Timor (Portugal v. Australia)* (see above, p. 181), *Passage through the Great Belt (Finland v. Denmark)* (see above, p. 184) and *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (questions of jurisdiction and admissibility) (see

above, p. 186) pleadings were filed by the Parties within the prescribed time-limits.

(e) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)* (Preliminary Objections), the Court, after ascertaining the views of the Parties, decided that the pleadings should be made accessible to the public as from the opening of the oral proceedings.

(f) *Oral proceedings*

(Statute, Arts. 43, para. 5, 45 and 46; Rules, Arts. 47, 54 and 58)

In the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)* (Preliminary Objections), the oral proceedings consisted of two rounds of arguments. During those proceedings the President of the Court drew the attention of counsel generally to the provision of Article 60 of the Rules of Court, that

"the oral statements . . . shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain".

At the hearings on the requests for indication of provisional measures in the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, the Court, for reasons of convenience, and after consultation with the Governments concerned, decided that Libya, the Applicant and the State requesting provisional measures, would address the Court first, on the requests presented in both cases and that it would be followed by the United Kingdom; and then by the United States in the two cases respectively. Those practical arrangements were stated to be without prejudice to any decision the Court might subsequently take to join the proceedings in the two cases at any time or to direct common action in any respect in those proceedings. The hearings consisted of two rounds of arguments.

(g) *Questions put by judges*

(Statute, Arts. 45 and 49; Rules, Arts. 61 and 72)

At the hearings on the preliminary objections in the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, two Members of the Court put questions to the Parties. Both Parties replied to some of the questions during the oral proceedings and to others in writing after

the end of the oral proceedings. The latter replies were communicated to the other Party for comments.

During the hearings on the requests for indication of provisional measures made by the Applicant in the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, a Member of the Court put questions to both Parties in both cases; the judge *ad hoc* put a question to the Applicant. The replies were given in writing after the end of the oral proceedings; they were communicated to the other Party for comments.

(h) *Final submissions*

(Rules, Art. 60, para. 2)

At the conclusion of the oral proceedings in the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, the Agents of both Parties presented the final submissions of their Governments, which were also submitted in writing.

During the second round of hearings on the requests for indication of provisional measures in the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, the Agents of the two Respondents presented the final submissions of their Governments on those requests as confirmed by the Agent of the Applicant.

(i) *Provisional measures*

(Statute, Art. 41; Rules, Arts. 73 and 74)

In each of the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, the Applicant made a request for indication of provisional measures on 3 March 1992. In its requests the Applicant, referring to Article 74, paragraph 4, of the Rules of Court, also requested the President, pending the meeting of the Court, to exercise the power conferred on him by that provision to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects. At the opening of the hearings on the request for indication of provisional measures, the

Vice-President of the Court, exercising the functions of the presidency in the case, stated that after the most careful consideration of all the circumstances then known to him he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. Those hearings on the requests for indication of provisional measures, at which both Parties in both cases presented oral observations on these requests, were held by the Court from 26 to 28 March 1992. The Court made an Order on each of the requests on 14 April 1992 (see above, pp. 188-195).

(j) *Discontinuance*

(Rules, Art. 89)

In the cases concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) and *Border and Transborder Armed Actions* (*Nicaragua v. Honduras*), the Agent of the Applicant gave notice of the discontinuance of the case by his Government. After the other Party had stated, within the time-limit fixed by the President of the Court, that it did not oppose the discontinuance, the President of the Court in the first case (see above, p. 150) and the Court in the second case (see above, p. 152) made Orders recording the discontinuance and directing the removal of the case from the list.

(k) *Separate opinions and declarations*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning the *Arbitral Award of 31 July 1989* (*Guinea-Bissau v. Senegal*), one judge and one of the judges *ad hoc* appended declarations to the Judgment; the Vice-President and three judges appended separate opinions; two judges appended a joint dissenting opinion and one judge and the other judge *ad hoc* appended dissenting opinions to the Judgment.

In the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya v. United Kingdom*) and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya v. United States of America*), the Vice-President and one judge appended declarations to the Orders of the Court on the requests for indication of provisional measures; four judges appended a joint declaration. Two judges appended separate opinions; and four judges and the judge *ad hoc* appended dissenting opinions to the Orders.

In the case concerning *Certain Phosphate Lands in Nauru* (*Nauru v. Australia*), one judge appended a separate opinion and the President, the Vice-President and two judges appended dissenting opinions to the Judgment on the Preliminary Objections.

(1) *Reading of the decision of the Court*

(i) *Judgments*

(Statute, Art. 58; Rules, Arts. 94 and 95)

The Judgment of the Court in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)* was read at a public sitting; in view of the length of the text, the President omitted or summarized certain passages.

The Judgment on preliminary objections in the case concerning *Certain Phosphate Lands in Nauru (Nauru v. Australia)* was read in the same way.

(ii) *Orders*

The Orders on the requests for indication of provisional measures in the two cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)* were read by the Vice-President, in his capacity as Acting President, at a public sitting.

III. REPORT AND REPRESENTATION OF THE COURT AT THE
GENERAL ASSEMBLY

On the occasion of the forty-sixth session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 1990 to 31 July 1991 (A/46/4). This report was divided into eight parts, relating to the composition, jurisdiction and judicial work of the Court, the United Nations Decade of International Law, administrative questions, and the Court's publications and documents. The General Assembly took note of the report at its 44th plenary meeting held on 8 November 1991.

On that occasion the President who, with the Registrar, represented the Court at the forty-sixth session of the General Assembly, addressed that body on the role and functioning of the Court. The text of that address is reproduced in the Appendix to this Chapter (see below, pp. 205-212). Those Members of the Court who were present in New York also attended part of the forty-sixth session of the General Assembly.

A report dealing with the period 1 August 1991 to 31 July 1992 will be submitted on the occasion of the forty-seventh session of the General Assembly (A/47/4).

IV. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities

of their own or of another country. Between 1 August 1991 and 31 July 1992 the Court received approximately 1,200 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

THE ROLE AND FUNCTIONING OF THE COURT

At the 44th meeting of the forty-sixth session of the General Assembly, held on 8 November 1991 (see above, p. 204), the President of the Court, Sir Robert Jennings, gave the following address:

"I am most grateful for the permission that has been given to me, as President of the International Court of Justice, to address the General Assembly. I thought it might be useful at this session, when there is the feel of a new beginning, when the international scene is changing with bewildering rapidity, to take a new look at the role of the International Court of Justice.

After decades of underuse, the Court now has a full docket of important cases, with Parties ranging from Scandinavia to Australia and from Central America to the Gulf. Perhaps I might give the Assembly a brief rundown of the present list of cases, in order to give some idea of the topics and of the Parties involved.

First, the Court will give its Judgment early next week in a case between Guinea-Bissau and Senegal on whether an arbitration award of 1989, concerning their dispute over the maritime boundary, is or is not binding.

Second, beginning next week will be the oral proceedings in a case brought by Nauru against Australia regarding the mining of Nauru's phosphate resources during the period of trusteeship.

Third, progressing at the same time — for gone are the days of taking one case at a time — is the case between El Salvador and Honduras, with Nicaragua as intervener, brought before a Chamber of the Court, concerning six portions of the land frontier, the legal position of the waters of the Gulf of Fonseca, and questions about islands in the Gulf. This dispute, going back a very long time indeed, has at least once led to armed hostilities.

Fourth, a new case introduced by Guinea-Bissau against Senegal seeks to bring the substance of the question of their maritime boundary before the Court.

Fifth, there is the case brought by Finland against Denmark complaining that a suspension bridge that Denmark proposes to build over the Great Belt will, if completed, be in breach of rights of passage for drilling rigs and drilling ships that pass through those

waters from Finland to the North Sea. The Court has already adjudged an application for interim measures of protection in this case and will probably be holding hearings on the substance of the matter next year.

Sixth, there is a case between Denmark and Norway over the delimitation of the maritime boundary between Greenland and Jan Mayen in which a very large area of sea and shelf is involved.

Seventh, the Islamic Republic of Iran has brought a case against the United States concerning the shooting down of Iranian flight 655 in the Gulf on 3 July 1988.

Eighth, the well-known case of territorial dispute between the Libyan Arab Jamahiriya and Chad, which has at times been the cause of armed hostilities, now comes before the Court as a result of action by both Parties.

Ninth, Portugal has recently brought a case against Australia concerning the continental shelf off East Timor, Portugal complaining of Australian dealings with Indonesia over that maritime area.

Tenth, there is an application by Qatar against Bahrain regarding the maritime boundary in the Gulf.

Eleventh, the case concerning border and transborder armed actions brought by Nicaragua against Honduras remains on the list but proceedings have been suspended at the request of both Parties.

All eleven of these cases are brought under the Court's contentious jurisdiction. But it would be wrong to assume that the influence of the Court is necessarily limited to the cases appearing on the lists and eventually in the reports; there are also cases that are settled diplomatically when the possibility of resort to the Court as an option is brought up in negotiation.

I should mention that the use of the contentious jurisdiction is now much assisted by the Trust Fund for helping to meet the expenses of poorer litigant Governments. This important Fund was created on the initiative of our present Secretary-General, and all the Members of the Court are most grateful for this assistance.

There are no advisory opinion cases before the Court at the moment, but there have been some fairly recently, and I would like to mention that recently, for the first time, the Economic and Social Council exercised its power to ask the Court for an advisory opinion.

This docket of cases is an impressive list compared with, I think, that of any other time in the history of the World Court. Even so, one is very much aware that a list of 11 cases might not immediately strike a judge of a typical domestic court as representing an over-busy court.

On this point, I should like to mention that the International Court and domestic courts are not in a comparable situation. First, there are the dimensions of some of the cases we have to hear and decide. The El Salvador-Honduras case is one in which there is a table full of volumes of documents and volumes of arguments and

pleadings, which is in itself a very large task to negotiate. Secondly, in most of the cases — in fact, 10 out of the 11 I have mentioned — the Court does sit as a full court of 15 judges, or if there are *ad hoc* judges, even 16 or 17, who must, every one of them, be allowed to take a full part in the preparation of notes, in the deliberations and in the formal readings of the draft judgment in the two languages of the Court. They must be allowed to do this because they are elected, in accordance with the Statute, to represent the main forms of civilization and the principal legal systems of the world. To fulfil that requirement, the Court must operate as a college and it takes a good deal of time, as one can imagine, for 15, 16 or 17 judges to take a full part in almost every stage of the decision of a case. Finally, I might perhaps be allowed to mention that every judge does his own research, in every case, into the now vast and complex body of international law materials, for none of us is provided with research assistants, and even secretarial assistance has to be shared. I mention these matters because the Court does feel very busy, and from what happened in the past I think we may say that it is gratifyingly busy by any standard.

Glancing at this list of cases, we can say one thing with assurance: this is indeed now a world court, exhibiting in its daily work that quality of universality which is also a feature of this General Assembly. I think there is every reason to believe that this new busyness of the Hague Court, which has been developing now for some time, is set to continue. A reason for that belief is that there is perhaps now a greater understanding among Governments of the role that an international court can and should play in their relations with one another. An important and welcome symptom of that change is the steady growth of the number of declarations accepting a measure of compulsory jurisdiction under Article 36 (2) of the Court's Statute, the so-called optional clause. This development is also matched by the withdrawal of many reservations against jurisdiction clauses in treaties, which is also an important and welcome tendency, and by the augmentation of the Court's general jurisdiction.

But it is not my intention just to report to the Assembly on the relative health of the World Court at the present time, but rather to try to look to the future and see the direction in which the Court perhaps ought to go during this Decade of International Law, whose programme also includes the strengthening of the role of the International Court of Justice. A major problem for the United Nations as a whole must always be the relationship between, on the one hand, political decision and action on the diplomatic plane and, on the other, adjudication on the basis of law by the Hague Court in its role as the principal judicial organ of the United Nations. What part, for instance, can and should the Court now play in that important new role of the United Nations which has been called preventive diplomacy? These questions raise some other large ques-

tions and I can only attempt here to sketch the future role of the Court in this respect as I see it in this rapidly changing and evolving United Nations.

The relatively restricted role played by the Court in the past stemmed, at least in part, from seeing the role and function of the Court as being a quite separate one to be performed over there in the Peace Palace at The Hague. I suppose people in general thought, and perhaps still think, of the Court as a quite separate and self-sufficient means of dealing with any dispute and thus, since it was simplistically assumed that wars and threats of wars arise from disputes, ensuring peace among nations. This innocent fallacy was fed by the more sophisticated fallacies of scholars who taught that, since all disputes were indeed capable of being solved by some legal answer, peace could be assured if Governments in dispute could be persuaded always to resort to the Court instead of resorting to force.

The extraordinary thing about this attitude of idealizing and at the same time harmfully isolating the role of the World Court is that none of those commentators would for a moment have expected any domestic court within a State to be able of itself to create order in society by the rule of law when isolated from other organs of government such as an executive or legislative branch. For even in a developed society working within the legal system of a State, it may be found wiser, and even compelling on occasion, to change anachronistic or outdated law rather than seek to enforce it through the courts. There are, therefore, some situations and even some disputes between Governments which require a political decision by a political body rather than a decision by a court on the basis of existing law. It is a source of constant wonder that so many good people in the past could so long have supposed that an international court with compulsory jurisdiction was really possible without complementary and developed competences vested in other kinds of international governmental bodies.

Fortunately, developments within the United Nations itself have now overtaken this fallacy. Now the General Assembly, working mainly through the International Law Commission and the Sixth Committee but also through other organs, engages actively and continuously not only in the codification of existing international law but also in its progressive development. And the preventive diplomacy of the Secretary-General, the Security Council and indeed the General Assembly is providing the International Court of Justice with that political context in which it should now be able to perform its proper legal function.

But let us be clear that adjudication of disputes is a process that has certain quite particular characteristics, the nature of which it is important to appreciate if we are to see the proper place of adjudication in the general scheme of the United Nations.

The International Court of Justice, like any court of law set up to

adjudicate a dispute, operates by requiring the parties, by a process of written and oral pleadings, to reduce or refine their dispute into a series of specific issues of law or fact, or both law and fact, on which the parties take different views, and upon which accordingly the Court can decide by saying *yea* or *nay*, with the decision supported by legal reasoning. This process is easily recognizable by consulting the so-called submissions of the parties in any case and the operative part of a Judgment. In this process of the identification of the essential juridical and factual issues, the dispute is, as it were, refined, reduced and processed so as to make it suitable for judicial settlement, to make it in fact a justiciable dispute.

The issues thus identified and abstracted are decided by the Court by considering them in the light of the applicable law, which is public international law. International law is nowadays a much more elaborated, developed and complete system of law than many people realize, thanks partly to the jurisprudence resulting from the decisions of the International Court of Justice and other legal tribunals, and thanks also to the very important work of the International Law Commission and the Sixth Committee of the General Assembly.

On the other hand, although the process of adjudication means the reduction of a dispute to specific issues of law and fact, it is also necessary to appreciate that there is also in every dispute a more or less important political content. Every decision of a court has political consequences, as well as legal ones. The former tendency of commentators to distinguish between legal and political disputes, as if they fell into quite distinct categories, had a dangerous artificiality. A court must indeed apply legal rules and be seen clearly to be doing so, for otherwise it forfeits such authority as it has, for its authority arises not from the pronouncements of judges but from pronouncements of what the law is. Nevertheless, a good and useful court will not be ignorant of the political issues involved or of the political consequences of the decision it takes.

The important distinction, therefore, is not between legal and political disputes so much as between legal and political methods of dealing with disputes and indeed also with situations. One does not go to a court with matters in which a political rather than a legal decision is required; to do that there are other bodies, not least the principal political organs of the United Nations itself.

Nevertheless, there are many situations and disputes even of a highly political kind in which both kinds of process — adjudication and political and diplomatic adjustment — can make a contribution. I can best say what I mean by referring here to the Report of the Secretary-General to the General Assembly, where it is said:

'Another deficiency in the working of the system of collective security is the insufficient use of the principal judicial organ of the United Nations, the International Court of Justice. Many interna-

tional disputes are justiciable; even those which seem entirely political (as the Iraq-Kuwait dispute prior to invasion) have a clearly legal component. If, for any reason, the parties fail to refer the matter to the Court, the process of achieving a fair and objectively commendable settlement and thus defusing an international crisis situation would be facilitated by obtaining the Court's advisory opinion.' (A/46/1, p. 8.)

I want to emphasize this idea of identifying the 'legal component' or components of a larger and perhaps, looked at as a whole, predominantly political dispute or situation. This is where the Court's advisory jurisdiction, whereby it can give a non-binding opinion on the proper law applicable to a legal component of a dispute, could be immensely useful. It may sometimes offer a way of getting things moving. In any case, the clarification of the legal position of a mainly legal component can surely be very helpful. I am not suggesting it would invariably be wise or useful to seek an advisory opinion; that is a matter of juridical and political judgment. But I do believe that to have this option more constantly in mind would have great advantages for the whole process of preventive diplomacy. It is perhaps unfortunate that a superficial reading of Article 33 of the United Nations Charter, which lists all the possible ways for the pacific settlement of disputes, may give the impression that parties have simply to choose a method from the list, including the possibility of adjudication. In fact, I believe that the Court can usefully play a role, even in highly political matters, complementary to the other methods in that list.

To have the principal judicial organ of the United Nations more often employed with respect to the legal components of situations with which the United Nations is concerned would, quite apart from its possible contribution to solving a dispute or situation, also do immense good for international law. The relevance of international law would thus be brought home to people generally. Such a development must be good not only for the Court but also for the United Nations and for the authority and awareness of international law itself.

In short, I see the future of the International Court of Justice as becoming much more clearly seen as the principal judicial organ of the United Nations and much more intimately concerned with what is happening here at United Nations Headquarters in New York. I want to see the judicial organ and the political organs of the United Nations both working in harness much more than hitherto. This, I must make very clear, is not at all to suggest that I want the Court itself to become more political. On the contrary, its mission is to declare and apply the law, and it will range outside that task at its peril and at the peril of international law. Rather, the aim I have in view is that the Court and the law it applies should be seen much

more readily and commonly to be relevant to most disputed situations if only to a legal component of those situations and that it should be much more readily seen that the Court itself could be used for its proper legal purpose by the Security Council and the General Assembly, and by other bodies entitled to employ the Court's advisory jurisdiction, in matters that are not essentially legal in the overall view but perhaps highly political.

The Court has demonstrated that, where an advisory opinion is wanted urgently, it is able to give an answer remarkably quickly. The Court, in the case of the Palestine Liberation Organization Office in New York, where the General Assembly asked for an advisory opinion on 2 March 1988, was able, after full oral proceedings, to give its opinion in the following month of April. So, where rapidity is thought necessary and wise, we think we can provide it.

Let me emphasize now most strongly that what I am trying to suggest is not what one used to hear about discovering various ways of finding work for the Court to do. There is now no need for that. The Court is busy with important cases and indeed its meagre resources of personnel and premises are already dangerously stretched. It is, rather, a proposal that resort to the Court should be seen, not as a process over there in The Hague which can occasionally be appropriate and useful, but as an integral part of the work of preventive diplomacy in the United Nations here in New York. Such a development must help during this United Nations Decade of International Law to make people generally much more aware that international law is a complete system and that it should be and is regularly applied by the United Nations itself.

Let me now finally turn to an aspect of the Court's competence that stems not only from its own Statute but also from its being the principal judicial organ of the Organization. I refer to the fact that there is no element of the system of international law that is not within the Court's jurisdiction to interpret and apply when it is called upon to do so.

The perceived needs of a particular time will dictate emphasis on certain aspects or topics of international law. The needs of our time have meant rightly that energy, time, passion and politics are concentrated on such matters as the environment, conservation and distribution of resources, human rights and other topically important parts of international law. It is crucial, however, never for a moment to lose sight of the fact that all these parts of international law depend ultimately on the health and strength of the system of international law as a whole. A right — even human rights — does not amount to much in practice unless it is established and seen to be established as an integral part of the whole system of international law which alone can create effective corresponding obligations in the international community. Some of those special causes are no doubt very important, but the most important special cause of all is international law itself.

The International Court of Justice, as the principal judicial organ of the United Nations, is the organ which supremely represents and enshrines this universal system of now well-developed and working law. The Court's jurisdiction is in no way limited as to subject-matter. The environment, conservation, human rights, the law of the sea and the rest are without exception within the ambit of the Court's jurisdiction, and the range of topics involved in our present list of cases illustrates the wide spread.

There is of course room for some more specialized or regional tribunals. But let it not be forgotten that, exactly as in domestic court hierarchies, the principal judicial organ has jurisdiction in all matters; for in the end, the fabric of an effective law must be seen to be one and undivided, and universal in its application.

I am most grateful to have been given this opportunity to report on the state of the International Court of Justice and to make some suggestions about the direction of its future development. In closing, may I just express the warm gratitude of all Members of the International Court of Justice for the splendid support the Court is now receiving from the General Assembly and its Committees in the form of advice, encouragement and material resources. All that, I can assure the Assembly, is very much appreciated by all Members of the Court."

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At the United Nations Conference on Environment and Development (UNCED), which took place in Rio de Janeiro from 3 to 14 June 1992, the Registrar of the Court, Mr. Eduardo Valencia-Ospina, read a statement on behalf of the President of the Court. The text of that statement was as follows:

"It is my purpose, in this brief intervention, to call attention to the proper role of the International Court of Justice in relation to the twin questions of the environment and 'sustainable development', and in which, according to Principle 4 of the Rio Declaration, 'environmental protection shall constitute an integral part of the development process'. That the Court has a role to play in the settlement of disputes is now envisaged in Agenda 21, and I will return to that in a moment. But first I want to draw attention to its potential role in the actual further development of international law, in order to be able to cope with the very large questions of legal development raised by the environmental problem.

The core legal system for these matters has to be public international law. The dangers to the environment are global and therefore international in character. Accordingly the legal answers *have* to be international too. In some respects no doubt valuable contributions can be made by altruistic initiatives by States prepared to set an

example. But in the end it is *generally* applicable principles and rules that are necessary.

Furthermore, the preparatory work for the Conference showed very clearly from the beginning that it is not possible to seek solutions only in terms of the environment. Inextricably involved are also questions of development law, of poverty, of the distribution of raw materials and other resources, of international finance and of the transfer of technologies.

In a word, the legal problems of urgently developing international legal principles and rules to cope with these matters is an immense task. A beginning can be made by agreements, preferably in the form of clearly binding instruments made in accordance with the basic law of treaties, to deal to whatever extent may be found to be possible with particular and specific questions. But there should also be developments in the principles and rules of general customary international law, having regard to the large syllabus of general international legal change that will be necessary to begin to cope with these new problems; or at least problems which, if not always very new, are newly and recently emerged to the consciousness and attention of Governments.

This will not be easy to achieve because, although passion, enthusiasm and constructive indignation are readily kindled concerning, for example, the destruction of the rain forest, or the depletion of the ozone layer, it is at the present time not so easy to harness a like degree of forceful and effective enthusiasm for the appreciation and recognition of the importance of creating or developing the necessary and appropriate international law and institutions. Yet that is precisely what is needed at the present time.

That new international law for the protection of the environment needs urgently to be developed cannot be a matter of doubt. Existing general customary international law provides some useful elementary concepts, but they are inadequately developed or elaborated to cope with our present problems. For example, it is an important elementary principle that a State may not knowingly permit its territory to be used to inflict serious injury on other States — a proposition which, incidentally, owes its prominence if not its origin to a Judgment of the ICJ in the *Corfu Channel* case — but such general rules originated at a time before global problems such as climatic change were perceived at all. There are of course some other ancillary sources from which legal principles can be developed. There are pertinent resolutions of the General Assembly of the United Nations. There are some other sources such as Principle 21 of the 1972 Stockholm Declaration, which does seek to apply the principle of good-neighbourliness specifically to environmental harm and global commons. Moreover, the urgently needed elaboration and specificity of legal principles and rules can surely be developed to an important extent through multilateral conventions — and there are already

well-known drafts of such possible conventions in existence besides the ones that are presented to this Conference. But it is to be kept in mind that a convention is as such binding in law only on States which choose to become parties; and ultimately it is generally binding principles and rules that are needed.

And here the message I want to convey is that the International Court of Justice, the principal judicial organ of the United Nations, has a dual role to play. It is readily and generally thought of as being well suited to the settlement of disputes. But in so doing, it has also a vital role in the development and elaboration of general law. A glance at, for example, the now near 90 volumes of the *International Law Reports* demonstrates very clearly the extent to which judicial decisions are now an important source of international law. Moreover, a glance at virtually any report of a decision by the International Court of Justice itself will show the extent to which the decision is indebted to the 'jurisprudence' of previous decisions. In this way, principles and rules of law are gradually developed and elaborated by the very process of interpreting and applying them to the specific and often unforeseen factual situations that arise in actual disputes brought before the Court. Of course the Court cannot 'make' new law in the sense that a legislature can make law. It is, however, a process of judicial reasoning well recognized by courts and lawyers throughout the world: a process of legal reasoning by 'the consideration of precedents, the finding of analogies, the disengagement from accidental circumstances of the principles underlying rules of law already established' (J. L. Brierly, *The Law of Nations*, 5th ed., Oxford, 1955, p. 67).

It is, moreover, a principal task of the ICJ to decide, applying well-established rules and criteria, whether the provisions of multi-lateral treaties have or have not developed from merely contractual rules into rules of general customary international law. This function therefore provides a good illustration of the competence of the Court when, by its imprimatur that the required criteria apply, it can establish the development of treaty provisions into general law.

It is odd that this seminal function of the World Court in the development of general international law should now so often be forgotten, when it is a matter of deciding between different ways of settling particular disputes; for example by *ad hoc* arbitration. Before the Hague Court was established after the First World War, the principal reason given for establishing a *permanent* court, as contrasted with *ad hoc* tribunals, was because a permanent court alone could fully and consistently fulfil this task of developing international law. It was for this reason that the creation of a permanent standing Court was thought to be crucial to the development of an up-to-date and developed international law. *Ad hoc* tribunals can settle particular disputes; but the function of the established 'principal judicial organ of the United Nations' must include not only the

settlement of disputes but also the scientific development of general international law. This is, after all, a process very familiar in the development of domestic law within the State by its higher courts. There is therefore nothing strange in the ICJ fulfilling a similar function for the international community.

The ICJ is, however, in a more powerful position to assist the development of the law in that, unlike most domestic courts — though there are exceptions even in the domestic scene — the International Court of Justice has not only a jurisdiction in contentious cases between States, but also an advisory jurisdiction the very purpose of which is not the settlement of a particular dispute but an authoritative statement of the law in answer to the requests from certain qualified bodies amongst which, it is of interest to note in environmental matters, is the General Assembly — and here we may remember its several resolutions on environmental matters. Moreover, there is on the record a British suggestion that UNEP might eventually be converted into a specialized agency of the United Nations, in which case it would presumably also be granted competence to ask for ICJ advisory opinions on legal questions concerning environmental protection. That could be a very important step assisting in the creation of a new law of environmental protection.

Accordingly the ICJ has very important functions to perform in this matter of getting a better law of the environment. Moreover, let us be clear also that there is no legal question or problem concerning the environment over which the ICJ does not have full jurisdiction and competence *ratione materiae*. Its jurisdiction comprises the entirety of international law, including the recent and the innovative as well as the older law. It could hardly be otherwise with the principal judicial organ of the United Nations. There is, however, sometimes a tendency to suppose that a new and particular branch of international law might be better served by a new and particular tribunal of specialists or 'experts'. In some types of dispute that might well be so. But, as I have already mentioned, one lesson that emerges very clearly from the Conference is that the necessary legal syllabus is no specialist affair at all. It ranges over the whole field of public international law. Already in this brief comment we have come across crucial environmental questions involving the technical rules of the law governing the conclusion, interpretation and application of treaties, and the nature and rules of the formation of general customary law. This need to see specialized law in the context of the general law is indeed a truth familiar to practising lawyers in the domestic State scene. However esoteric one's professed speciality may be, it is the common experience that, faced with particular problems, one is often at a loss unless one has a mastery of the elements of the ordinary every-day law. This truth is indeed illustrated at this very Conference in which the interconnection of

environmental law and the law of development has had to be recognized throughout the Conference's work.

There is another good reason why a court applying general international law is the right forum for the development of environmental law. This new law for the environment must be seen to be part and parcel of general international law; otherwise it will technically and politically be bereft of that authority and binding force which attaches to general international law. A plea that X is depleting the ozone layer may be legally less effective than a plea that, in so doing, X is not only depleting the ozone layer but also, being in breach of the 1985 Vienna Convention on the Protection of the Ozone Layer, is in breach of the general international law of treaties and of its cardinal principle *pacta sunt servanda*.

All these factors should be borne in mind by Governments in deciding, in the dispute settlement clauses of draft treaties and working papers, whether to opt for the ICJ or for arbitration. Besides the important points I have mentioned, it is worth recalling that, since the ICJ is paid for on the United Nations budget anyway, to resort to *ad hoc* arbitration is markedly a more expensive procedure.

I must further draw attention to the importance of the International Court of Justice, not only in the fashioning of the new law we so urgently need, and its interpretation and application, but also for its sanctioning and enforcement. This has a two-fold aspect.

First, as the Court is the principal judicial organ of the United Nations, there is the formal machinery of enforcement provided for in the United Nations Charter. Article 94 provides:

- '1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.'

Now that the Security Council is getting used to being able to act, and has been at least to some extent rescued from the hobbling effects of the 'veto', this power could in future be of practical significance. An environmental issue could well be a situation where Article 94 could come into its own.

But there is also that other not so obvious yet politically significant aspect of a judgment or an advisory opinion of the ICJ. Once a judgment, or an opinion, is handed down, the political situation is no longer the same. A party to a dispute who has an ICJ judgment in his favour is, to say the least, in a better position than he was. The existence of an authoritative and reasoned decision on what is

the correct legal position is politically, as well as legally, a very different matter from a situation which consists only in asseverations from each side, each claiming to be in accord with the law.

For this reason, examples of cases where a decision of the ICJ has been successfully and ultimately defied are not easy to find. Until only a few weeks ago, the one stock example of such a case was the failure of Albania ever to pay the damages awarded to the United Kingdom in the *Corfu Channel* case. And it must be said that even municipal courts backed by all the power of the sovereign State do not have an overclean record when it comes to collecting money from a defendant with little or no resources from which to pay. Yet the Judgment was in fact satisfied by the terms of an agreement between Albania and the United Kingdom in April. So the *one* example of an unsatisfied ICJ Judgment has gone. But there is another point about that former Judgment: for what of the legal position of the passage of warships through a strait used by international shipping, the essence of the Judgment in that case. That law, laid down by the Court in the *Corfu Channel* case, is now universally accepted and is the rule in the modern law of the sea. This is both legally and politically of much greater significance than the payment of a sum in reparation for the illegality. In a word, the legal argument of Albania in this regard was rejected with an effect which was to prove total and permanent. And it is this aspect of law-developing and law-applying by the Court which is likely also to be of great importance in the law governing the environment.

Finally, a word about the procedures by which the Hague Court can be involved in environmental questions by way of the submission to its determination of particular disputes. The Court has the power under its Statute to create chambers for dealing with particular questions. It was a great ambition of the late President Nagendra Singh of India to get such a standing chamber established for the particular purpose of environmental disputes. This could still be done. And there are indeed judges of the Court who have taken a particular interest in environmental legal and other problems, who would be very suitable members of such a chamber. But there is also no reason why an environmental dispute should not be submitted, like other disputes, to an *ad hoc* chamber of the Court; a procedure which many Governments seem to find attractive.

Most cases, however, between States are submitted to the full Court, which is indeed what normally happens when the parties have not themselves specifically asked for the alternative of a chamber. It is the nature of this full Court to which I want now to draw attention. There are 15 judges (maybe up to 17 with *ad hoc* judges for a particular case). In accordance with Article 9 of the Statute, judges are elected by the Security Council and the General Assembly to represent the different forms of civilization and different legal systems. Accordingly, the full Court does represent the developing as

well as the developed world; not only France, the United Kingdom, the United States, Italy, Norway, Japan, Poland and Russia, but also Algeria, China, Guyana, Nigeria, Madagascar, Sri Lanka and Venezuela. On this question of the environment, there are great differences between the interests and the point of view of the developed and the developing nations. The Court has necessarily evolved techniques and procedures (necessarily elaborate and time-consuming, but notably very successful), whereby a legal decision can be forged which comprises these two sources. The Court has recently quite often been unanimous or near-unanimous in its decisions; and there have been very few, if any, where the alignment of judicial opinions for or against the decision was predictable. This is a great accomplishment, and makes it all the more important to have the Court at the centre of this environment question."

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The Court has taken note of the report entitled "An Agenda for Peace - Preventive Diplomacy, Peacemaking and Peace-keeping" (A/47/277; S/24111), prepared by the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992. The passage of the report concerning the Court reads as follows.

"The docket of the International Court of Justice has grown fuller but it remains an under-used resource for the peaceful adjudication of disputes. Greater reliance on the Court would be an important contribution to United Nations peacemaking. In this connection, I call attention to the power of the Security Council under Articles 36 and 37 of the Charter to recommend to Member States the submission of a dispute to the International Court of Justice, arbitration or other dispute-settlement mechanisms. I recommend that the Secretary-General be authorized, pursuant to Article 96, paragraph 2, of the Charter, to take advantage of the advisory competence of the Court and that other United Nations organs that already enjoy such authorization turn to the Court more frequently for advisory opinions.

I recommend the following steps to reinforce the role of the International Court of Justice:

- (a) All Member States should accept the general jurisdiction of the International Court under Article 36 of its Statute, without any reservation, before the end of the United Nations Decade of International Law in the year 2000. In instances where domestic structures prevent this, States should agree bilaterally or multilaterally to a comprehensive list of matters they are willing to submit to the Court and should withdraw their reservations to its jurisdiction in the dispute settlement clauses of multilateral treaties;

- (b) When submission of a dispute to the full Court is not practical, the Chambers jurisdiction should be used;
 - (c) States should support the Trust Fund established to assist countries unable to afford the cost involved in bringing a dispute to the Court, and such countries should take full advantage of the Fund in order to resolve their disputes."
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CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 (*i*), and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below¹.

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) Reports of Judgments, Advisory Opinions and Orders

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately². To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

In January of each year, an analytical index is published of the previous year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one volume.

Forty-three bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. (The *I.C.J. Reports* 1965, 1967, 1968, 1977, 1979 and 1983 are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports* 1953, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports* 1954, p. 7. (See Sec. II, pp. 228-236, below.)

¹ The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above: see pp. 135-136.

² See Chap. V, p. 141, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings¹, the written pleadings and their annexes², the verbatim record of the oral proceedings³, any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. Thus far 122 volumes have been published. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 242-248, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contains the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further includes certain resolutions concerning States entitled to appear before the Court. It was published in July 1978 and is available in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

(d) *Yearbook*

In the second half of each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August

¹ See Chap. V, pp. 137 and 145, above.

² *Ibid.*, pp. 138-139, above.

³ *Ibid.*, pp. 139-140, above.

of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the forty-sixth in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 27 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 44 (year 1990).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7: 2528* for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35: 81: 150* as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales Sections of the United Nations Secretariat: Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10, Switzerland, or the Sales Section, United Nations, New York, NY 10017, USA, and may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. *Publications of the Permanent Court of International Justice*

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)

Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)

Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)

Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)

Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)

Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*

Series E (Nos. 1-16): *Annual Reports*

Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

They can also be obtained from Kraus Reprint Company, Kraus Organization Limited, Route 100, Millwood, NY 10546, USA, to whom all orders and requests for information should be addressed.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order.

Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

- S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.*
German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.
Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.
Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

- Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.*
Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.
Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

- Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.*
Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.
Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.
Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.
Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.
Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

- Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.*
Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

- Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.*
Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.
"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.
Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

- Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.*
Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.
Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

- Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.*
Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.
Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.
Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.
Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.
Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

- Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.*
Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.
Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.
Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.
Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.
Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

- Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.*
Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.
Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

- Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 40, p. 4.*
Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A/B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A/B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A/B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A/B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A/B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

Prince von Pless Administration, Order of 2 December 1933, P.C.I.J., Series A/B, No. 59, p. 194.

Polish Agrarian Reform and German Minority, Order of 2 December 1933, P.C.I.J., Series A/B, No. 60, p. 201.

Appeal from a Judgment of the Hungaro/Czechoslovak Mixed Arbitral Tribunal (The Peter Pázmány University), Judgment, 1933, P.C.I.J., Series A/B, No. 61, p. 208.

1934

Lighthouses case between France and Greece, Judgment, 1934, P.C.I.J., Series A/B, No. 62, p. 4.

Oscar Chinn, Judgment, 1934, P.C.I.J., Series A/B, No. 63, p. 65.

1935

Minority Schools in Albania, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 64, p. 4.

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 65, p. 41.

1936

Pajzs, Csáky, Esterházy, Order of 23 May 1936, P.C.I.J., Series A/B, No. 66, p. 4.

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III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes (*Series C*) of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are

given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

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CHAPTER VIII

FINANCES OF THE COURT

I. FINANCIAL REGULATIONS

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 (*j*), of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) Method of covering expenditure

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 58-59, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them. By its resolution 43/223 of 21 December 1988, the General Assembly decided that these States should contribute to the expenses of the Court for the years 1989, 1990 and 1991 in the following proportions: Nauru 0.01%; San Marino 0.01%; Switzerland 1.16%.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat - see Chap. VII, p. 222, above), bank interest, etc., are also recorded as United Nations income.

(b) Drafting of the budget

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) Financing of appropriations and accounts

The Registrar is responsible for executing the budget, with the assistance of the Accountant/Establishment Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

*2. Salaries and Expenses of Judges**(a) Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985 and resolution 45/250 of 21 December 1990.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1991, the General Assembly (resolution 45/250) has fixed the emoluments of Members of the Court at US\$145,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every three years with the next review at its forty-eighth session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1991, the daily fee of *ad hoc* judges has been fixed at US\$397, being 1/365th of US\$145,000.

The emoluments of the judges are thus as set out on the following scale:

<i>President:</i>	US\$
Annual salary	145,000
Special allowance	15,000
<i>Vice-President:</i>	
Annual salary	145,000
Allowance equivalent to US\$94 for every day on which he acts as President, up to an annual maximum of . . .	9,400
<i>Other Members:</i>	
Annual salary	145,000
<i>Judges ad hoc:</i>	
Fee of US\$397 for each day on which they exercise their functions.	

(b) Pensions

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985 and resolution 45/250 of 21 December 1990.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1991 (resolution 45/250), if a Member of the Court has served a full term of nine years, the amount of the annual pension is US\$50,000. If he has served for more than nine years, the amount of the pension is increased up to a maximum of US\$75,000. It is reduced if he has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary.

(c) Conditions of service

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

"The General Assembly,

Recalling its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,

Having considered the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,

1. *Decides that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The Hague, shall be reimbursed, up to a ceiling of \$4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;*

2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;

3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 1991, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US\$6,750.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. *Salaries, Allowances and Expenses of the Registrar and Officials of the Registry*

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 9/+5 as from 1 July 1992. For temporary staff of the professional category, the subsistence allowance is fixed at 388 guilders a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. *Common Services*

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 129, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,009,400 guilders as from 1 January 1992 and will be increased to 1,039,600 guilders as from 1 January 1993.

II. BUDGET FOR THE BIENNIUM 1992-1993

1. *Ordinary Expenses*

The Budget of the Court for the biennium 1992-1993, which forms Part V, Section 8, of the Budget of the United Nations, was adopted by the General Assembly on 20 December 1991 (resolution 46/186).

BUDGET FOR THE BIENNIUM 1992-1993

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PROGRAMME UN-N-8-181. MEMBERS OF THE COURT	US\$	US\$
Salaries and allowances	4,329,200	
Pensions	1,647,100	
Travelling expenses	504,200	
Education grants	156,300	
		6,636,800
PROGRAMME UN-N-8-182. THE REGISTRY		
Salaries - established posts	5,077,000	
Common staff costs	1,411,100	
Salaries and travel costs of temporary assistance	1,422,000	
Consultants	79,800	
Travelling on official business	53,300	
Overtime	70,300	
Representation allowance	7,200	
Hospitality	6,700	
		8,127,400
PROGRAMME UN-N-8-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	1,217,600	
General operating expenses	373,500	
Contractual printing	410,200	
Data processing services	21,000	
Supplies and materials	147,800	
Library	103,500	
Furniture and equipment	130,100	
Miscellaneous expenses	22,400	
Acquisition/replacement office automation equipment	293,700	
		2,719,800
		17,484,000

2. Unforeseen and Extraordinary Expenses

On 20 December 1991 the General Assembly, in accordance with previous practice, adopted resolution 46/187, containing the following provisions:

"The General Assembly

1. Authorizes the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 1992-1993 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

(b) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the Court, Article 31), not exceeding a total of \$250,000;

- (ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of \$75,000;
- (iii) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of \$100,000."

III. ACCOUNTS FOR THE BIENNIUM 1990-1991

1. Budget Accounts

The Court's accounts are presented in the *I.C.J. Yearbook* in relation to the biennial period concerned and not on the basis of the single financial year.

The table on page 257 gives a summary of the budget accounts for the biennium 1990-1991.

2. Audit of Accounts

The accounts were audited by the competent authorities from 18 to 28 March 1991 and from 9 to 13 March 1992.

ACCOUNTS FOR THE BIENNium 1990-1991

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BUDGET ACCOUNTS FOR THE BIENNium 1990-1991

	<i>Appropriation after modifications and transfers</i>	<i>Expenditure</i>
	US\$	US\$
PROGRAMME UN-N-25-181. MEMBERS OF THE COURT		
Salaries and allowances	4,078,100	4,076,854
Pensions	1,516,600	1,517,483
Travelling and removal expenses	1,071,600	961,179
Education grants	72,600	67,276
	6,738,900	6,622,792
PROGRAMME UN-N-25-182. THE REGISTRY		
Salaries and overtime	6,699,200	6,569,863
Common staff costs	1,358,600	1,481,523
Travelling expenses	75,700	80,491
Representation allowance	7,200	7,200
Hospitality	8,100	8,489
	8,148,800	8,147,566
PROGRAMME UN-N-25-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	1,067,300	1,063,004
General operating expenses	361,000	335,946
Contractual printing	453,800	453,800
Supplies and materials	188,900	183,599
Library	100,500	102,591
Furniture and equipment	94,600	83,554
Miscellaneous expenses	6,600	6,338
	2,272,700	2,228,832
	17,160,400	16,999,190

The publications of the INTERNATIONAL COURT OF JUSTICE may be ordered from any bookseller. For information regarding the sale of the Court's publications please write to the *Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10 (Switzerland)*, or the *Sales Section, United Nations, New York, NY 10017 (USA)*.

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